

# MINNESOTA SENTENCING GUIDELINES COMMISSION

## Sentencing Practices

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### Criminal Sexual Conduct Offenses Sentenced in 2011

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## **Summary of 2011 Data**

This report summarizes sentencing practices for felony sex offenses sentenced in 2011. Information on sentencing practices from 1988-2011 is provided in the tables. This report also contains information on the use of special statutory sentencing provisions (including the patterned sex offender provision).

There were 580 offenders sentenced for Criminal Sexual Conduct (CSC) offenses in 2011, which is a three percent decrease from the number sentenced in 2010 (600). The number of offenders sentenced for criminal sexual conduct offenses has fluctuated since 1981, peaking at 880 offenders sentenced in 1994 (34% greater than the number sentenced in 2011). Almost all of the growth since 1981 has been in the CSC child provisions (Intra-Familial Sex Abuse (IFSA) and provisions specifying the age of the victim).

Almost 95 percent of offenders sentenced for CSC offenses received sentences that included incarceration in a state prison (40%) or local jail (55%). In CSC cases where the Guidelines recommended imprisonment, 71 percent of offenders received an executed prison sentence. Seventy-five percent of offenders with a prior sex offense conviction received an executed prison sentence. The overall mitigated dispositional departure rate was 29 percent, an increase from 2010 (25%).

For first- and second-degree offenses, the offender was more likely to be a family member; for third- and fourth-degree offenses, the offender was more likely to be an acquaintance. Overall, only a small percentage (7%) of cases involved strangers.

The average pronounced sentence across all CSC offense degrees was 122 months, a decrease from 125 months in 2010 (the highest average duration ever observed). The average pronounced sentence for first-degree CSC (the most serious offense category) was 173 months. Average pronounced prison sentences have increased dramatically since 1989, when recommended sentence durations under the Guidelines were lengthened. The average pronounced prison sentence was 54 months in 1988. The previous highest average sentence pronounced since the Guidelines were enacted was 116 months in 2003. While average prison sentences have increased dramatically since 1988, average pronounced local jail time has remained relatively consistent.

First-degree CSC offenses committed on or after August 1, 2000, are subject to a 144-month presumptive sentence enacted by the Legislature. In 2011, 97 percent of all first-degree CSC offenders sentenced (not including attempts) were subject to this presumptive sentence, a slight increase from the 94 percent who were eligible in 2010.

Five offenders sentenced in 2011 received life sentences. In addition, three offenders received sentences that were twice the length of their presumptive sentences or more. In addition, five offenders received sentences of 360 months (30 years). The Sex Offender Grid is effective for offenses occurring on or after August 1, 2006. In 2011, 500 (86%) of the 582 sex offenders were eligible for sentencing under the new grid. The Sex Offender Grid includes longer presumptive sentences for offenders with prior records and also gives greater weight to some prior sex offenses.

## Sex Offense Statutes & Sentencing Policy

### *Sex Offense Statutes: General Structure*

Under Minnesota law, sex offenses are categorized into five degrees of criminal sexual conduct (CSC), with first-degree being the most serious. The classification of offenses into degrees is based on a combination of factors:

- whether the offense involved sexual penetration or contact;
- the age of the victim;
- the relationship of the offender to the victim (e.g., position of authority, significant relationship, psychotherapist, etc.);
- the degree of injury or threat of injury;
- whether a weapon was involved; and
- whether force or coercion was involved.

(See Table 19, for the number of cases displayed by statutory provision.)

Most of the provisions of first-degree criminal sexual conduct involve penetration and personal injury, fear of great bodily harm, or the use of a dangerous weapon. First-degree criminal sexual conduct also includes offenses involving young children, regardless of whether or not any injury, force or weapons were involved. Second-degree offenses are similar, but involve sexual contact rather than penetration. Effective August 1, 1995, some sexual contact offenses were also categorized as first-degree offenses. These offenses involve the more serious forms of sexual contact with victims who are under the age of 13, as defined in Minn. Stat. § [609.341](#), subdivision 11.

Third-degree offenses involve penetration and focus on children who are slightly older, or cases in which there was force or coercion. The use of a weapon or the threat of great bodily harm is not a necessary element of the offense. Third-degree offenses also include cases involving psychotherapists, health professionals, clergy and correctional employees. Fourth-degree offenses are similar, except that they involve sexual contact rather than penetration. There are some felony-level, fifth-degree offenses. They involve repeat violations of gross misdemeanor indecent exposure offenses involving minors.

### *Relationship-Based Classifications*

Sentencing practices differ based on the relationship between the victim and the offender. To assist in analyzing and interpreting information on sentencing patterns, sex offense cases examined for this report were assigned to the following categories, based on the statute of conviction:

- IFSA (Intra-Familial Sex Abuse): Conviction under a subdivision that specifies that the offender had a significant relationship to the victim.
- Other Child: Conviction under a subdivision that specifies that the victim is a minor, but does not specify that there was a significant relationship. Subdivisions that specify that the

offender was in a position of authority over the victim are included here because, in addition to parents, these offenses include persons acting in a position of authority.

- Force/Other: Force or a weapon was involved, or the offense involved abuse by a psychotherapist, health care professional, clergy member or members of other specified occupations. The provisions do not specify the age of the victim or the relationship of the offender to the victim. Some of the victims of these offenses are also children.

It is important to note that an offense may fit into more than one category. For example, many offenses categorized as “Other Child” or “Force/Other” involved family members (29% and 15%, respectively). Likewise, a substantial number of “Force/Other” cases involved victims under the age of 18 (21%). Figure 3 provides a complete breakdown of sex offenders sentenced since 1993 by the relationship classification.

### *Sentencing Guidelines for Sex Offenders*

On August 1, 2006, the Commission adopted a separate Sex Offender Grid effective for offenses committed on or after that date. All first-degree completed offenses are ranked at Severity Level A and have presumptive sentences that range from 144 months to 360 months. The Sex Offender Grid does not distinguish between first-degree contact and penetration; they are all ranked at the same severity level.

Second- and third-degree offenses involving force are ranked at Severity Levels B and Severity Level C. The second-degree force offenses have presumptive sentences that range from 90 months to 300 months. The third-degree force offenses have presumptive sentences that range from 48 months to 180 months.

Second and third-degree offenses not involving force and fourth-degree offenses are ranked at severity levels for which some offenders are recommended probation based on criminal history. Recommendations for prison begin at a Criminal History Score of 2 or 3, depending on the offense (See, Sex Offender Grid, p. 49). Maximum recommended sentences range from 84 months to 140 months.

In addition to longer recommended sentences for offenders with a Criminal History Score of 1 or more, the Guidelines applicable to CSC offenses compute criminal history differently for sex offenses than for other offenses, increase the weights assigned to some prior sex offenses, and assign two custody status points to repeat sex offenders who commit a new sex offense while on probation or supervised release for a prior sex offense.

### Life Sentences for Certain Sex Offenders

Since 2005, the Legislature has provided for life sentences in cases in which an individual's criminal behavior is so egregious that public safety demands it be possible to incarcerate them for much, and possibly all, of their lives. See [Minn. Stat. § 609.3455](#), subd. 2. In 2011, 89 percent of the first- through fourth-degree offenders had dates of offense on or after the August 1, 2005 effective date. Sex offenses under [Minn. Stat. § 609.3455](#), subd. 2, are excluded from the Sentencing Guidelines, because by law the sentence is mandatory life imprisonment.

## Applicable Grid

Section 3.G. of the Guidelines provides that modifications will be applied to offenders whose date of offense is on or after the specified modification effective date. Therefore, the Sex Offender Grid enacted in 2006 is applicable to offenders whose date of offense is on or after August 1, 2006. Of the 582 offenders sentenced for criminal sexual conduct offenses in 2011, 500 (86%) were eligible for sentencing on the Sex Offender Grid. Table 1 provides a summary of cases by degree and applicable Grid. Seventy-seven percent of first-degree offenders sentenced in 2011 were eligible for sentencing on the Sex Offender Grid.

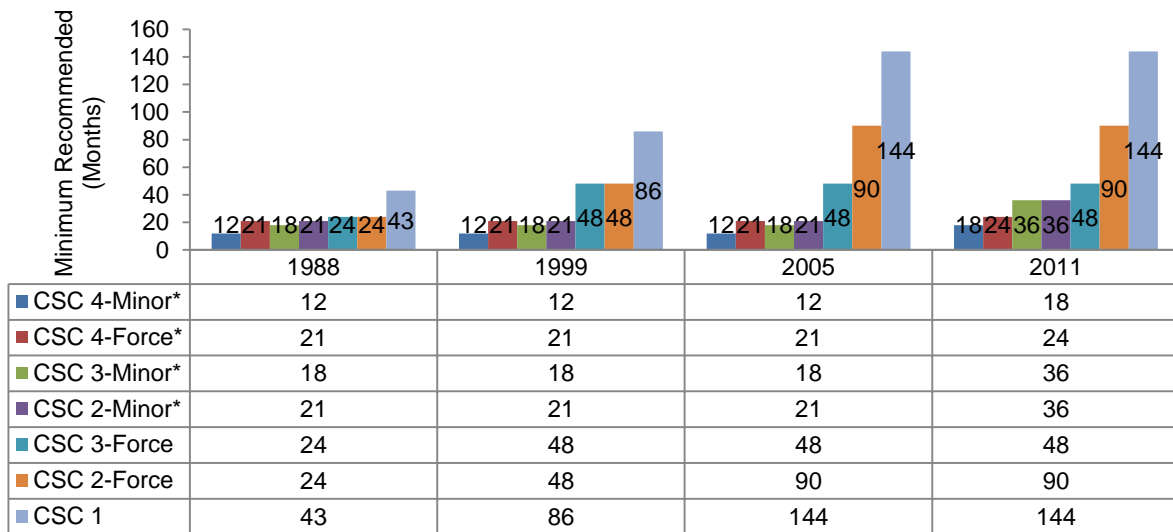
**Table 1. Distribution of Cases by Degree, Severity Level and Applicable Grid**

Degree	Statutory Provisions	Cases Sentenced on Standard Grid		Cases Sentenced on Sex Offender Grid		Number of Cases Sentenced
		Severity Level	Number Cases Sentenced	Severity Level	Number Cases Sentenced	
First	Penetration: 609.342, all clauses	9	35 (23%)	A	115 (77%)	150
First	Contact: victims under 13 (def. in 609.341 subd.11)	8	0	A	0	0
Second	Contact with Force: 609.343 subd.1 c,d,e,f,h	8	7 (24%)	B	22 (76%)	29
Second	Contact with Minors: 609.343 subd.1 a,b,g	6	20 (20%)	D	78 (80%)	98
Third	Penetration: Force or Prohibited Occupation 609.344 subd.1 c, d, g-n	8	6 (9%)	C	62 (91%)	68
Third	Penetration with Minors: 609.344 subd, 1 b,e,f	5	7 (5%)	D	139 (95%)	146
Fourth	Contact: Force or Prohibited Occupation 609.344 subd. 1 c, d, g-n	6	2 (4%)	E	45 (96%)	47
Fourth	Contact with Minors: 609.344 subd, 1 b,e,f	5	5 (12%)	F	37 (88%)	42
Fifth	Repeat gross misdemeanor offenses involving minors	4	0	G	2 (100%)	2
<b>Total</b>			<b>82 (14%)</b>		<b>500 (86%)</b>	<b>582</b>

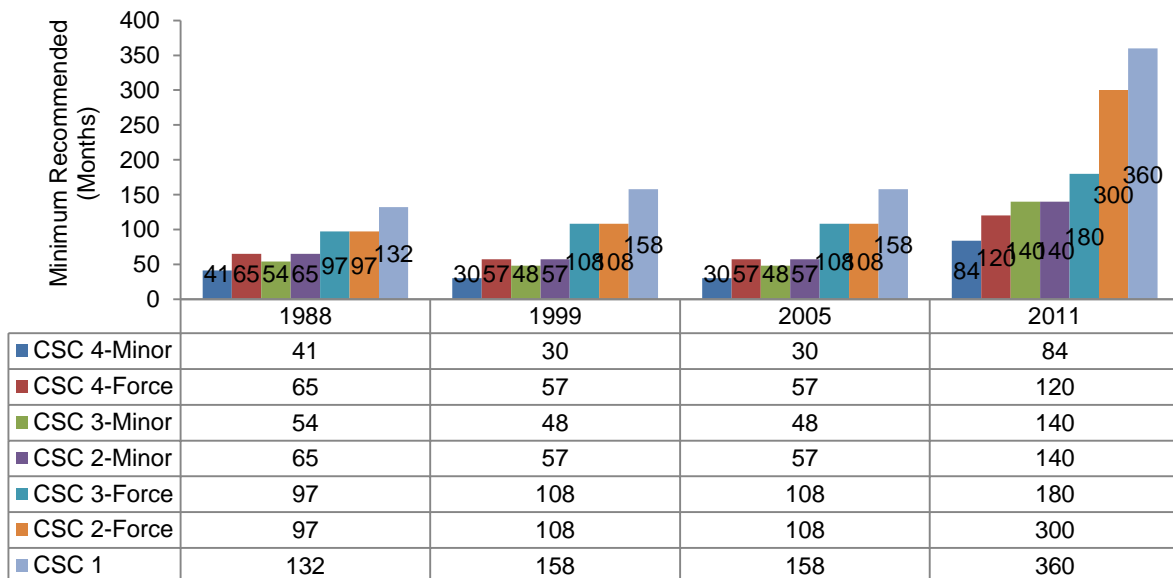
## Presumptive Sentences Over Time

Figures 1 and 2 illustrate the impact of the Sex Offender Grid and changes in legislative sentencing mandates on the presumptive sentences for sex offenders over time at Criminal History Score of 0 (Figure 1) and Criminal History Score 6 (Figure 2).

**Figure 1. Minimum Presumptive Sentences by Degree over Time<sup>± \*</sup>  
At Criminal History Score 0**



**Figure 2. Maximum Presumptive Sentences by Degree over Time  
At Criminal History Score 6**



<sup>±</sup> 12.03 = 12 months and 1 day

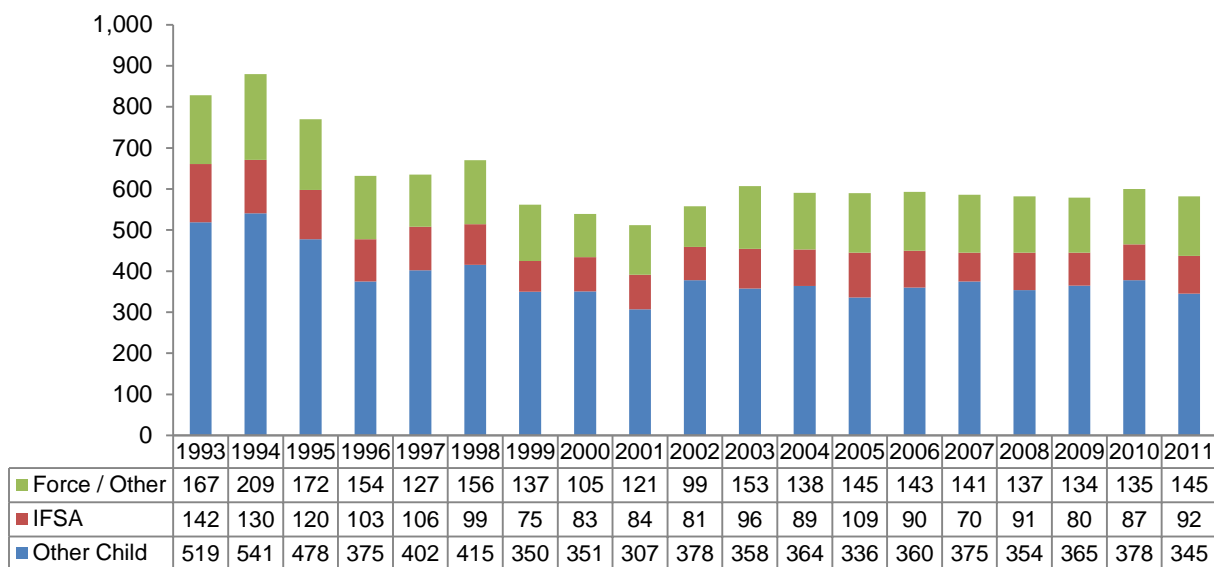
\* Presumptive sentence = stayed (probationary) sentence



## Case Volume & Distribution<sup>1</sup>

In 2011, 580 offenders were sentenced for CSC offenses, a decrease of three percent from the number sentenced in 2010 (600). As Figure 3 illustrates, the number of offenders sentenced for CSC offenses peaked in 1994 at 880 offenders. Since 2003, the number of offenders sentenced for criminal sexual conduct offenses had consistently ranged from 580-600. See Table 12, for information on the number of offender's sentenced for sex offenses since 1988.

**Figure 3. Volume of Cases and Type of Offense: 1993-2011**



### Type of Offense

The distribution of cases between the relationship categories has remained fairly stable since 2003. In 2011, 145 (25%) of the cases sentenced were in the “Force/Other” category, almost the same percentage as those observed from 2006 to 2010. There were 92 (16%) “IFSA” cases and 345 (59%) were “Other Child.” In the “Force/Other” category, 142 of the 145 cases were offenses involving force; of the remaining three cases, two involved massage therapists and one involved a clergy member.

The distribution of cases among the five statutory degrees has also remained fairly consistent from year to year over the last eight years. (Table 13) Between 2004 and 2008, first-degree offenses usually comprised between 21 to 25 percent of the cases sentenced. In 2009, the percentage of first-degree cases declined below that usual range to 18 percent. In 2010 there was a 36 percent increase in the number of offenders sentenced for first degree offenses and they made up 24 percent of the offenders sentenced. In 2011 the number of offenders

<sup>1</sup> Minnesota Sentencing Guidelines Commission (MSGC) monitoring data are offender-based, meaning cases represent offenders rather than individual charges. Offenders sentenced within the same county in a one-month period are generally counted only once, based on their most serious offense.

sentenced for first-degree offenses increased again resulting in the following distribution of cases; 26 percent of the cases sentenced were first-degree offenses, 22 percent were second-degree offenses, 37 percent were third-degree offenses, and 15 percent were fourth-degree offenses. There were two felony fifth-degree offense sentenced in 2011.

### *Victim Characteristics*

Following is an overview of victim characteristics for the criminal sexual conduct offenses sentenced in 2011. This information was derived primarily from the Minnesota Offense Codes (MOCs), which accompany the charge on the complaint. In cases for which the MOC information was unclear or missing, where possible, the information was obtained from the statute of conviction. In 80 percent of the cases sentenced, the victims were minors: 33 percent involved victims under the age of 13; 47 percent involved victims who were between the ages of 13 and 17. Nineteen percent involved victims who were adults. Ninety percent of the victims were female, and ten percent were male. (See Table 17 for information on victim age.)

Table 18 displays the relationship between the victim and the offender by the offense degree and clause of conviction (clause specifying a child victim or clause specifying force or other). For first- and second-degree offenses, the offender was more likely to be a family member (57% and 58%, respectively); for third- and fourth-degree offenses, the offender was more likely to be an acquaintance (77% and 55%, respectively). Overall, only a small percentage of cases (7%) involved strangers.

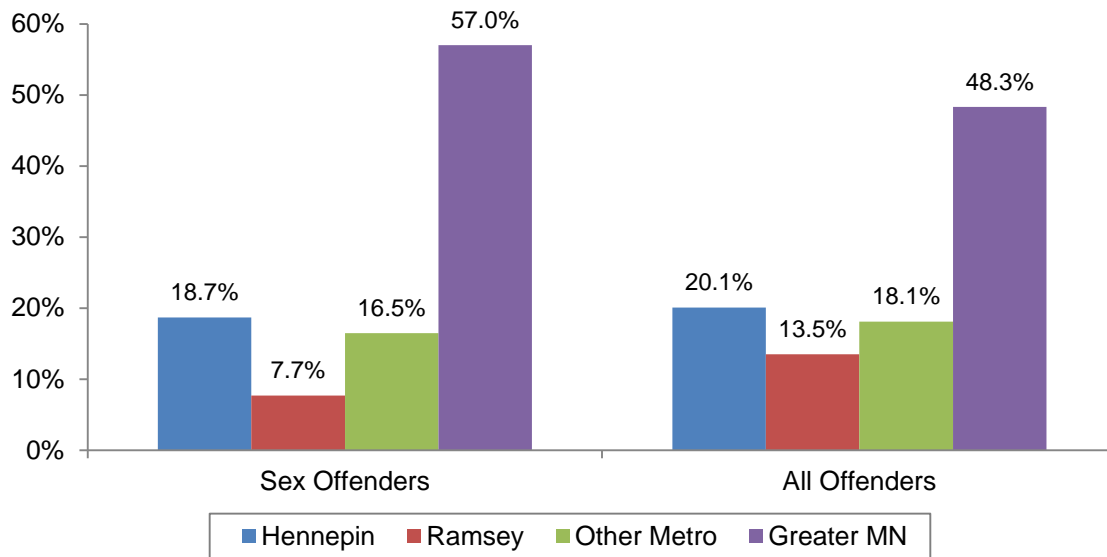
### *True Prior Record*

Most offenders sentenced for felony-level sex offenses do not have “true prior” sex offenses in their criminal record. A “true prior” is a prior offense with a conviction date before the date of the current offense. Other priors may include multiple offenses charged in a single complaint and sentenced in successive order. Prior offenses that contribute to an offender’s criminal history score are listed on an offender’s worksheet. In 2011, only five percent of sex offenders had a true prior felony sex offense listed on their sentencing worksheet. This figure varied slightly by the type of sex offense. (See, Table 3 below.)

### *Demographic Characteristics*

Sex offenders are more likely to be male than the overall offender population. Ninety-nine percent of offenders sentenced for CSC offenses were male. In comparison, 83 percent of felony offenders overall were male. A higher percentage of sex offenders are sentenced in Greater Minnesota compared to all felony offenders (Figure 4). Sex offenders are also slightly more likely to be white or Hispanic than the overall offender population and less likely to be black (Figure 5). The average age at time of offense was 31 years old for both sex offenders and the overall felony population. However, five percent of the offenders sentenced for criminal sexual conduct offenses were juveniles compared to one percent of the offenders sentenced for all felonies. Twenty-eight percent of the offenders sentenced for criminal sexual conduct offenses were 21 and under compared to twenty-one percent of the offenders sentenced for all felonies. (Table 2)

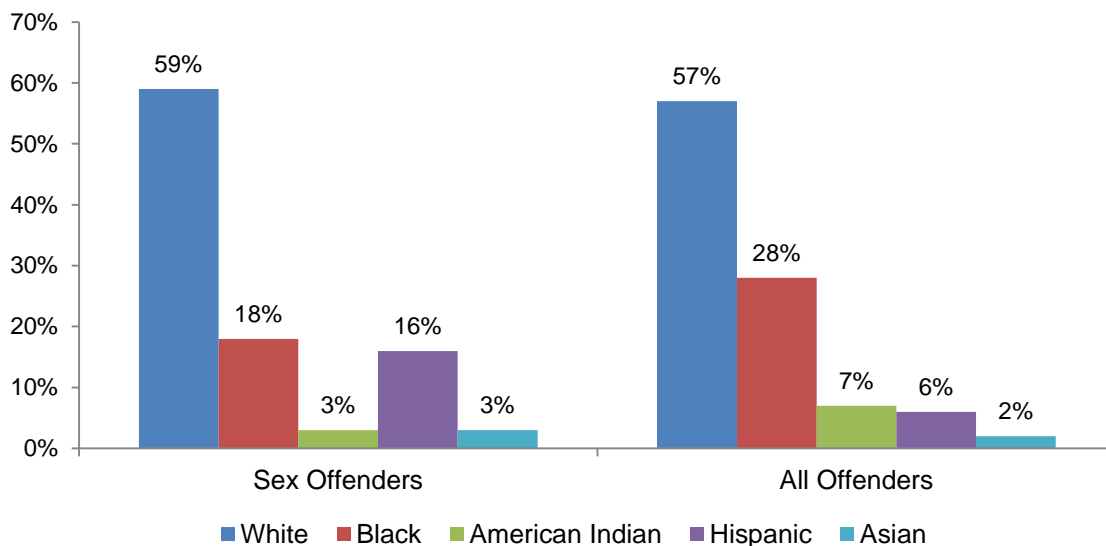
**Figure 4. Distribution of Offenders by Region:  
CSC Offenders Compared to All Offenders**



**Table 2. Age Range of Offenders:  
CSC Offenders Compared to All Offenders**

Age Range	All Felony Offenders		CSC offenders	
Under 18	127	1%	29	5%
18-21	2,876	20%	135	23%
22-25	2,365	16%	78	13%
26-30	2,760	19%	83	14%
31-40	3,394	23%	130	22%
41-50	2,226	15%	84	14%
51 and over	823	6%	43	7%
<b>Average Age</b>	<b>31</b>		<b>31</b>	

**Figure 5. Distribution of Offenders by Race:  
CSC Offenders Compared to All Offenders**



## Sentencing Practices

The recommended sentence under the Guidelines varies by the severity level of the conviction offense and the offender's criminal history. These differences make it difficult to interpret overall sentencing information for sex offenders. Therefore, in addition to reporting overall statistics, this section of the report presents data for presumptive commits (cases for which the Guidelines recommend prison) and for presumptive stays (cases for which the Guidelines recommend probation) separately. Information on sentence durations is presented by severity level and type of sex offense.

### *Incarceration Rates*

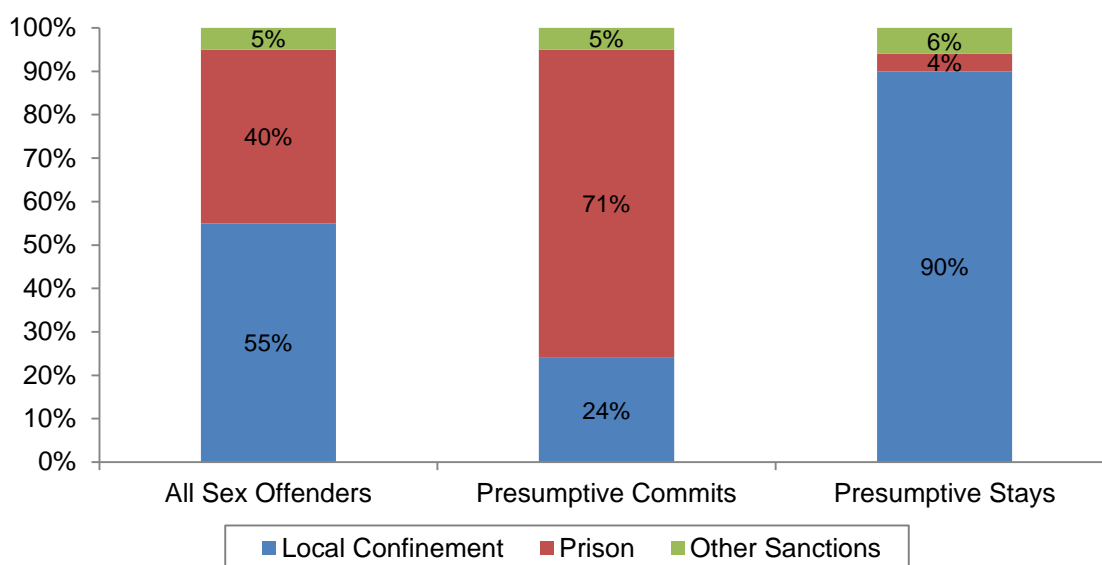
In 2011, the total incarceration rate for sex offenders was 95 percent; an increase from the 2010 rate of 89 percent. As seen in Figure 6, 40 percent of offenders received a prison sentence and 55 percent received local confinement. Prior to 2010, the total incarceration rate had consistently exceeded 90 percent for the past 18 years. The 2011 imprisonment rate of 40 percent was the second highest rate observed since 1988, second only to the 41 percent rate seen in 2003. (See, Tables 12 and 13, for historical information on incarceration.)

The Guidelines recommended a presumptive sentence of imprisonment for fifty-four percent of the CSC offenses sentenced. Of these, 71 percent actually received a prison sentence. The imprisonment rate for offenders who had a true prior sex offense was 75 percent. Imprisonment rates for offenders with true priors were higher for those sentenced for the "Force" offenses (100%) than those sentenced for the "Other Child" offenses (69%) and the "IFSA" offenses (50%) (Table 3).

**Table 3. Offenders with True Prior Sex Offenses:  
Number of Cases and Imprisonment Rates by Type of CSC Offense**

Type of Offense	Overall		Offenders with True Prior CSC Offense (s)		
	Number of offenders	Imprisonment Rate	Number of offenders		Imprisonment Rate
IFSA	92	54 (59%)	4	4.3%	2 (50%)
Other Child	345	99 (29%)	16	4.6%	11 (69%)
Force	142	80 (56%)	8	5.6%	8 (100%)
Other	3	1 (33%)	0	---	
Total	582	234 (40%)	28	4.8%	21 (75%)

**Figure 6. Incarceration Rates**



### *Sentence Durations: Prison Sentences*

The average pronounced duration in months is presented for offenders who received executed prison sentences. In 2011, the average pronounced prison sentence was 122 months (Figure 7; Table 12), which is a decrease from the average duration of 125 months in 2010. In 2010, there was one case that received an extraordinarily long sentence of 1,173 months (through consecutive sentencing). When that case is excluded, the average pronounced sentence was in 2010 was 121 months, which would make the 2011 average of 122 months the longest average pronounced sentence. The average pronounced sentence was 100 months in 2009. The increase in the last two years is partly attributable to the fact that the percent of first-degree criminal sexual conduct offenses sentenced increased from 18 percent in 2009 to 24 percent in 2010 and 26 percent in 2011. Average pronounced durations have also been impacted by the

implementation of the Sex Offender Grid. In 2011, a larger percentage of the offenders sentenced were eligible for sentencing based on the Sex Offender Grid (86%) than in previous years (85 percent in 2010, 77 percent in 2009, 64 percent in 2008, and 37 percent in 2007). Figure 7 illustrates the increase in average pronounced sentences for CSC by degree over time.

**Figure 7. Average Pronounced Prison Sentences by Degree over Time  
Executed Sentences by Offense**

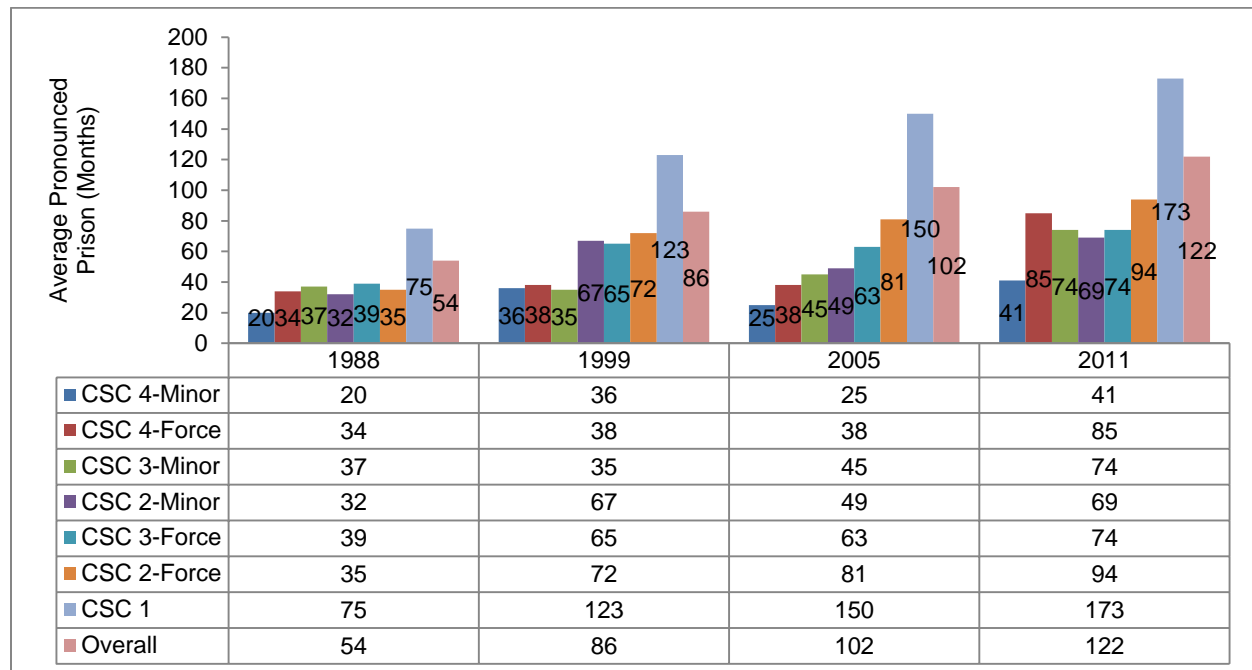
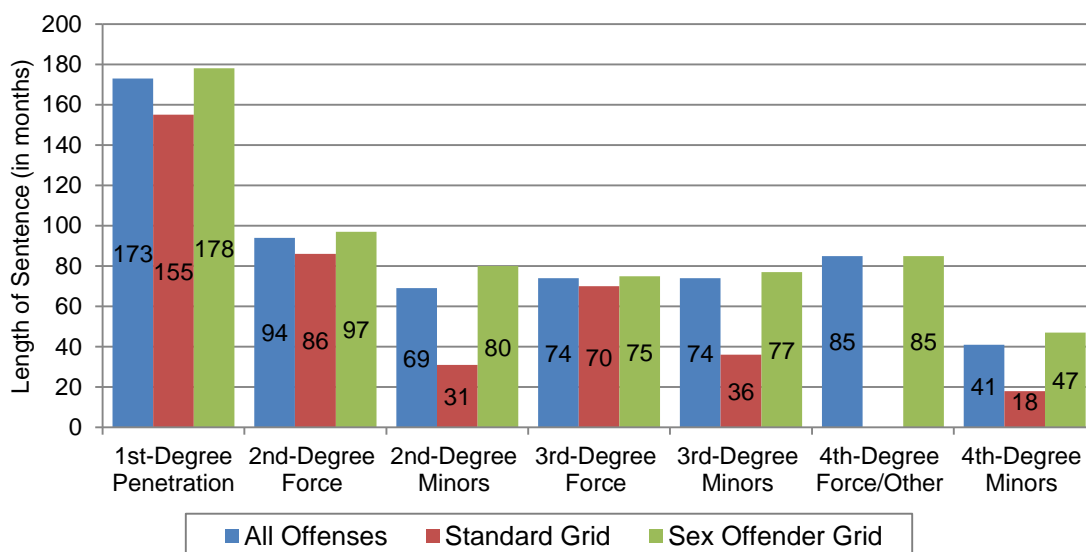


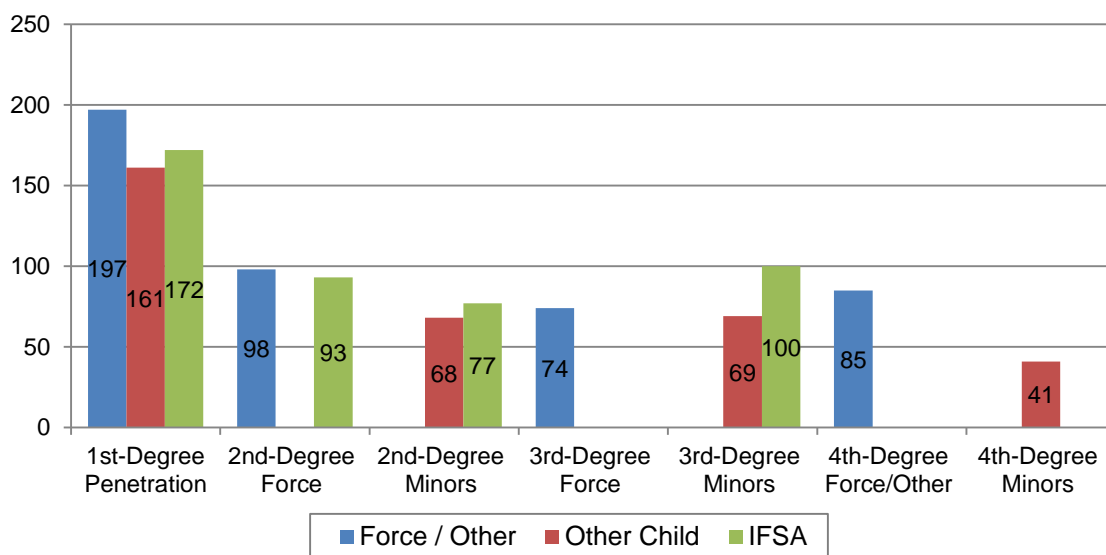
Figure 8 shows that for all degrees, the average pronounced sentence is longer for offenders who were eligible for sentencing on the sex offender grid. Offenders convicted of first-degree penetration offenses received significantly longer sentences than those received by offenders convicted of lesser severity level offenses (Figure 8). The average pronounced sentence for those offenders was 173 months, a decrease from the 2010 average of 183 months. If the one case with the extraordinarily long sentence is excluded from the 2010 cases, the average pronounced sentence for first-degree offenses was 174 months. For the second-degree force offenses, the average pronounced duration was 94 months, a decrease from the 2010 average (99 months). Average sentence lengths increased in 2011 from those observed in 2010 for the second-degree minor offenses (from 63 months to 69 months), third-degree force offenses (from 68 months to 74 months) third-degree minor offenses (from 66 months to 74 months), and fourth-degree force/other offenses (from 44 months to 85 months). (For historical information on past sentence durations, see Tables 12 and 13.)

**Figure 8. Average Pronounced Prison Sentence:  
Executed Sentences by Offense and Grid\***



Even within a severity level, there are differences in the average pronounced sentences among the various types of sex offenses (see Figure 9). For example, for first-degree and second-degree cases, the average pronounced sentences for “Force” offenses were longer than those for the other offense types. For the second-degree and third-degree minor cases, the average pronounced sentence was longest for offenders in the “IFSA” category (Figure 9).

**Figure 9. Average Pronounced Prison Sentence:  
Executed Sentences by Offense and Offense Type\***



\*2011 average durations exclude 5 offenders who received life sentences.

The average sentence duration is affected by both departures from the Guidelines and the use of consecutive sentences. When consecutive sentences are given for multiple current offenses, the total pronounced sentence to be served is increased. Table 4, presents information on the average pronounced prison sentence for each severity level, by whether the offender received a consecutive sentence and/or a durational departure.

**Table 4. Average Pronounced Sentence:  
Executed Sentences by Sentence Type and Severity**

Offense	Mitigated Durations				No Durational Departure				Aggravated Durations			
	No Consecutive Sentences		Consecutive Sentences		No Consecutive Sentences		Consecutive Sentences		No Consecutive Sentences		Consecutive Sentences	
	#	Avg. Months	#	Avg. Months	#	Avg. Months	#	Avg. Months	#	Avg. Months	#	Avg. Months
1 <sup>st</sup> Degree Penetration N=110	20	117	0	---	71	167	13	241	4	267	2	284
2 <sup>nd</sup> Degree Force N=23	1	21	0	---	22	97	0	---	0	---	0	---
2 <sup>nd</sup> Degree Minors N=23	3	42	0	---	18	77	1	36	1	36	0	---
3 <sup>rd</sup> Degree Force N=39	5	44	0	---	30	72	1	240	3	88	0	---
3 <sup>rd</sup> Degree Minors N=13	1	90	0	---	11	76	0	---	1	36	0	---
4th Degree Force/Other N=12	3	57	0	---	6	79	2	123	1	132	0	---
4th Degree Minors N=9	1	36	0	---	8	41	0	---	0	---	0	---
Total N=229	34	88	0	---	166	116	17	215	9	156	3	233



## Significantly Longer than Presumptive Prison Sentences

There are several statutes and Guidelines that permit the court to impose sentences that are significantly longer than the presumptive sentence when the circumstances of the case so warrant. This section describes the longer prison sentences pronounced in 2011. This section also describes the life sentences pronounced since that provision was enacted.

### Use of Life Sentences over Time

As mentioned above (p. 6), in August 2005, the Legislature established life sentences for certain offenders under [Minn. Stat. § 609.3455](#). For some of these provisions, the sentence mandated is life without the possibility of release. For other provisions, the court must specify the minimum time to be served before the offender can be considered for release. Table 5 displays information on sex offenders who have received life sentences since 2006. In 2011, five offenders received life sentences. One of the sentences pronounced in 2011 was for life without the possibility of release and four were for life with the possibility of release. A “true prior” sex offense is indicated if the offender was sentenced for a criminal sexual conduct offense before they committed the current offense.

**Table 5. Pronounced Life Sentences: Type of Offense and Presumptive Sentence**

Year	Offense	Severity	Criminal History	# True Prior Sex Offenses	Grid Duration	Pronounced Minimum to Serve	Life Sentencing Provision
2006	3 <sup>rd</sup> Degree- Force or Coercion	8	2	1	68 months	136 months	Unknown
2007	1 <sup>st</sup> Degree - Fear Great Bodily Harm	9	0	0	144 months	144 months	Unknown
2007	2 <sup>nd</sup> Degree - Dangerous Weapon	8	4	1	98 months	180 months	609.3455 subd.4(a)1
2007	2 <sup>nd</sup> Degree - Victim Under 13	6	8	1	60 months	360 months	609.3455 subd.4(a)1
2007	3 <sup>rd</sup> Degree - Victim 13-16	D	4	3	91 months	240 months	609.3455 subd.4(a)1
2008	1 <sup>st</sup> Degree - Fear Great Bodily Harm	9	5	2	146 months	No release	609.3455 subd.2 (a) 1
2008	2 <sup>nd</sup> Degree - Victim Under 13	D	9	4	140 months	140 months	609.3455 subd.4(a)1
2008	1 <sup>st</sup> Degree- Multiple Acts	A	3	1	180 months	206 months	609.3455 subd.4(a)1
2009	1 <sup>st</sup> Degree- Force & Injury	A	1	0	156 months	No release	609.3455 subd.2 (a) 1
2009	1 <sup>st</sup> Degree - Fear Great Bodily Harm	A	4	0	234 months	No release	609.3455 subd.2 (a) 1
2010	1 <sup>st</sup> Degree - Fear Great Bodily Harm	A	6	2	360 months	No release	609.3455 subd.2 (a) 2
2010	3 <sup>rd</sup> Degree- Force or Coercion	C	4	1	117 months	117 months	609.3455 subd.4(a)2ii
2011	2 <sup>nd</sup> Degree- Force & Injury	B	2	1	130 months	No release	609.3455 subd.2 (a) 2

Year	Offense	Severity	Criminal History	# True Prior Sex Offenses	Grid Duration	Pronounced Minimum to Serve	Life Sentencing Provision
2011	1 <sup>st</sup> Degree – Pos. of Auth. & Victim 13-16	A	3	2	180 months	300 months	609.3455 subd.4(a)1
2011	1 <sup>st</sup> Degree – Pos. of Auth. & Victim 13-16	9	3	2	144 months	144 months	609.3455 subd.4(a)1
2011	1 <sup>st</sup> Degree – Pos. of Auth. & Victim 13-16	A	4	1	234 months	234 months	609.3455 s.4(a) (2) (ii)
2011	1 <sup>st</sup> Degree- Force & Injury	A	5	1	306 months	404 months	609.3455 subd.3(a)

## 2011 Sentences with Double the Presumptive Sentence or More

In 2011, three offenders received prison sentences that were double the length of their presumptive sentences or more. The presumptive sentences, pronounced sentences, criminal history scores and sentence type for these cases are listed in Table 6.

All of these sentences were the result of aggravated durational departures. None cited the patterned sex offender provision (Minn. Stat. §609.355 subd.3a) as a reason for departure. One also involved consecutive sentencing.

A “true prior” sex offense is indicated if the offender was sentenced for a criminal sexual conduct offense before they committed the current offense. The offender who received consecutive sentences was not sentenced for multiple current sex offenses.

**Table 6. Sentences of Double the Presumptive Sentence or More**

Offense	Severity	History	Number True Prior Sex Offenses	Grid Duration	Total Sentence	Consecutive Sentence?	Aggravated Duration
1 <sup>st</sup> Degree - Dangerous Weapon	9	0	0	144	345	Yes	Yes
1 <sup>st</sup> Degree- Force and Injury	A	0	0	144	346	No	Yes
3 <sup>rd</sup> Degree - Victim 13-16	5	0	0	18	36	No	Yes and aggravated disposition

2011 Sentences with Durations of 30 Years or More

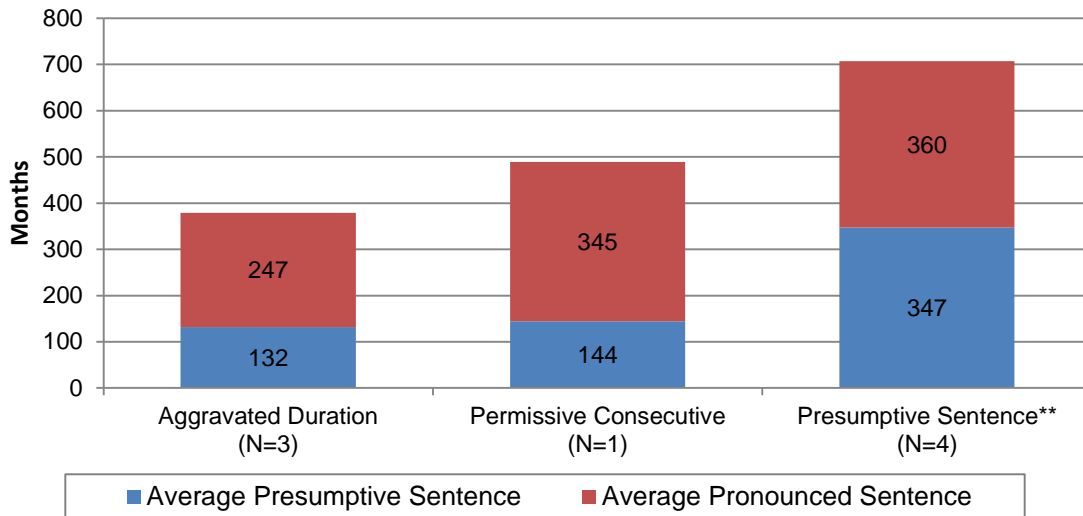
Five offenders received prison sentences of 360 months (30 years) or more that were not twice their presumptive sentences. All were first-degree offenders who had high criminal history scores. Information about these offenders is displayed in Table 7. All five offenders received sentences of 360 months; for two cases, this was the presumptive sentence, for two it was the upper end of the range, and for the other one, the court pronounced an aggravated durational departure. None of these cases involved consecutive sentencing. A true prior sex offense is indicated if the offender was sentenced for a criminal sexual conduct offense before they committed the current offense. Two of these offenders had true prior sex offenses. One of these offenders had prior sex offenses that were not sentenced before they committed the current offense.

**Table 7. Sentences with Durations of 30 Years or More**

Offense	History	# True Prior Sex Offenses	Grid Duration	Total Sentence	Consecutive Sentence?	Aggravated Duration
1 <sup>st</sup> Degree - Victim Under 13	6	0	360	360	No	No
1 <sup>st</sup> Degree - Victim Under 13	5	2	306	360	No	No
1 <sup>st</sup> Degree - Victim Under 13	4	2	234	360	No	Yes
1 <sup>st</sup> Degree- Fear Great Bodily Harm	5	0	306	360	No	No
1 <sup>st</sup> Degree- Fear Great Bodily Harm	6	0	360	360	No	No

Figure 10 combines the information described in tables 7 and 8 to illustrate some of the longest sentences pronounced in 2011. There were eight offenders who either received double their presumptive sentence or more, or a sentence of 360 months (30 years) or more. These sentences were achieved either through the presumptive sentence or Guidelines policies that permitted aggravated durational departures or permissive consecutive sentences.

**Figure 10. Significantly Longer than Presumptive Prison Sentence: Double the Presumptive or more and 360 Months or more\***



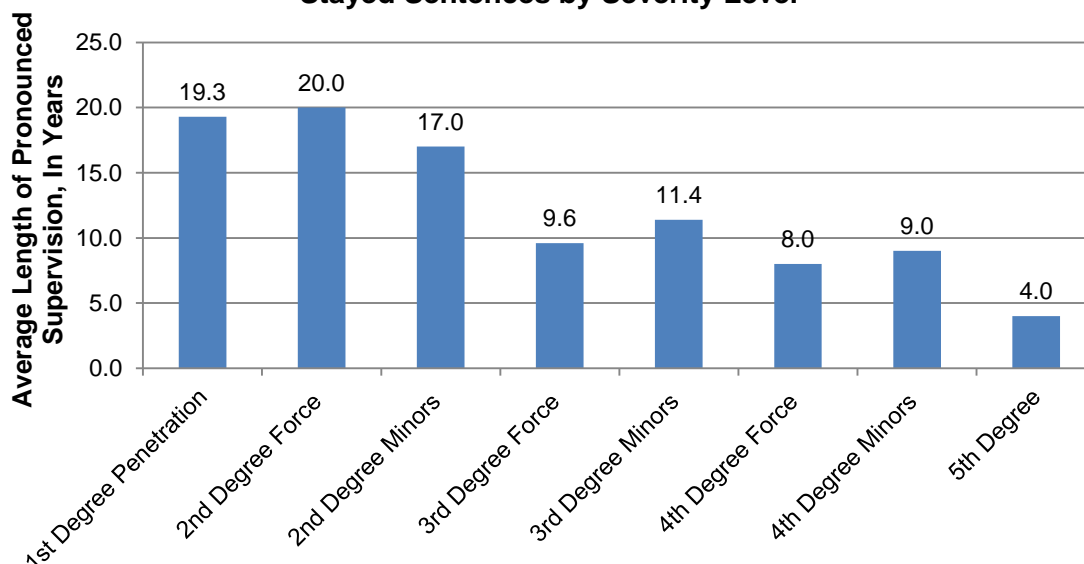
\* Excludes 5 offenders who received life sentences.

\*\* 4 offenders total; 2 received the top of the cell range to get 360 months (30 years).

*Sentence Durations: Probation Sentences*

Sixty percent of the CSC offenders sentenced in 2011 received a probation sentence. Of the offenders who were placed on probation, 74 percent received probation because it was the presumptive sentence and 26 percent received probation as a mitigated dispositional departure. The average pronounced period of probation for sex offenders was approximately 13 years (Figure 11). The average probation period for offenders convicted of first-degree offenses was over 19 years.

**Figure 11. Average Pronounced Period of Supervision (Years): Stayed Sentences by Severity Level**



Ninety-one percent of offenders who did not receive an executed prison sentence received local confinement time. The average pronounced local confinement for sex offenders was 190 days, compared to 184 days in 2010 (Table 12). The pronounced local confinement time was significantly longer for offenders convicted of offenses for which the Guidelines recommended presumptive commitment to prison (284 days) than for offenders convicted of offenses for which the Guidelines recommended a presumptive stayed sentence (160 days).

## Departures from the Guidelines

The Guidelines establish a presumptive sentence for felony offenses based on the severity of the offense and the offender's criminal history score. The presumptive sentence is based on the typical case, however, the court may depart from the Guidelines when substantial and compelling circumstances exist. A "departure" is a pronounced sentence other than that recommended in the appropriate cell of the applicable Grid. There are two types of departures – dispositional and durational – as further explained below. Since the presumptive sentence is based on "the typical case," the appropriate use of departures by the courts when substantial and compelling circumstances exist can actually enhance proportionality by varying the sanction in an atypical case.

While the court ultimately makes the sentencing decision, other criminal justice professionals and victims participate in the decision-making process. Probation officers make recommendations to the courts regarding whether a departure from the presumptive sentence is appropriate, and prosecutors and defense attorneys arrive at agreements regarding acceptable sentences for which an appeal will not be pursued. Victims are provided an opportunity to comment regarding the appropriate sentence as well. Therefore, these departure statistics should be reviewed with an understanding that, when the court pronounces a particular sentence, there is typically agreement or acceptance among the other actors that the sentence is appropriate. Only a small percent of cases (1% to 2%) result in an appeal of the sentence pronounced by the court.

### *Dispositional Departures*

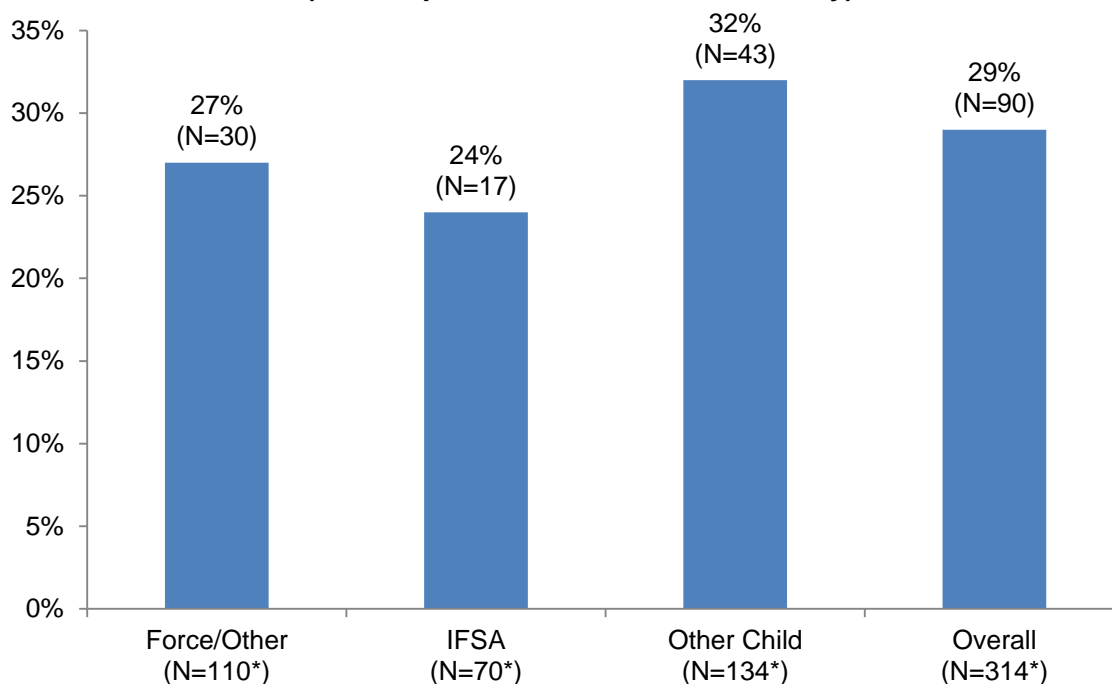
A "dispositional departure" occurs when the court orders a disposition other than that recommended in the Guidelines. There are two types of dispositional departures: aggravated dispositional departures and mitigated dispositional departures. An aggravated dispositional departure occurs when the Guidelines recommend a stayed sentence but the court pronounces a prison sentence. A mitigated dispositional departure occurs when the Guidelines recommend a prison sentence but the court pronounces a stayed sentence.

### Mitigated Dispositions

Figure 12 shows mitigated dispositional departure rates for cases in which the Guidelines recommend prison ("presumptive commits") by type of sex offense. The overall mitigated dispositional departure rate was 29 percent, an increase from the rate in 2010 (25%) (Table 15). This rate tends to vary by offense type, with "IFSA" cases historically showing the highest rate of departure.

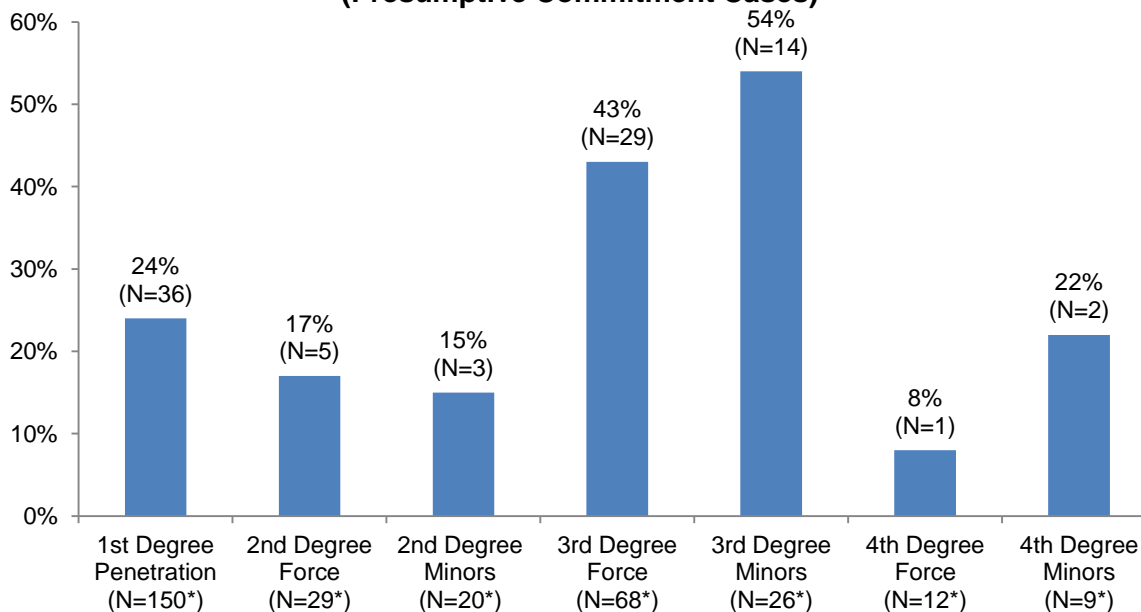
Throughout the 1990s, the departure rate for these offenses usually exceeded 45 percent, occasionally topping 50 percent. Since 1998, the departure rate has varied greatly from year to year. The departure rate in 2011 for the IFSA cases was 24 percent, lower than the departure rates for "Force/Other" (27%) the rate for "Other Child" (32%) (Figure 12). Figure 13 shows dispositional departure rates by degree. There was one fifth-degree presumptive commit; that case received probation.

**Figure 12. Mitigated Dispositional Departure Rates by Type of Offense (Presumptive Commitment Cases Only)**



\* Number of Presumptive Commitment cases.

**Figure 13. Mitigated Dispositional Departure Rates: By Degree (Presumptive Commitment Cases)**



\* Number of Presumptive Commitment cases.

The most common reasons cited for mitigated dispositional departures typically involves placement of the offender in sex offender treatment programs, placement in other types of treatment (e.g., chemical dependency), recommendations by court services, placement of the offender on long-term probation supervision to ensure compliance with conditions, amenability to probation and remorse or acceptance of responsibility on the part of the offender. For most years, the court indicates that the victim or victim's family agreed with the departure in about 15 percent of cases; in 2011, it was 12 percent. In 12 percent of the mitigated dispositions, the court indicated the departure was made to spare the victim from testifying (Table 8). In 63 percent of the mitigated dispositions, the court indicated that there was either a plea agreement for the departure or that the prosecutor recommended or did not object to the departure. The court reported that the prosecutor objected to the departure in about 11 percent of the mitigated dispositions. It should be noted that no plea information was provided by the courts in about 26 percent of the mitigated dispositions.

**Table 8. Mitigated Dispositional Departures:  
Most Frequently Cited Departure Reasons<sup>2</sup>**

Departure Reason	Percent of Departures with Reason Cited
Amenable to Probation	50%
Amenable to Treatment	53%
Recommended by Victim/Victim's Family	12%
Prevent Trauma to Victim from Testifying	12%
Recommended by Court Services	13%
Ensure Compliance with Probation or Allow Longer Supervision	8%
Shows Remorse/Accepts Responsibility	28%
Prosecutor Objects	11%
Prosecutor does not Object	10%
Recommended by Prosecutor	16%
Plea Negotiation	58%

### Aggravated Dispositions

Ten of the 268 offenders recommended probation received a prison sentence, an aggravated departure rate of about four percent. In eight (80%) of these cases, the offender either agreed to the departure or requested a prison sentence, usually because the offender was in prison or going to prison for another offense.

### *Durational Departures*

A "durational departure" occurs when the court orders a sentence with a duration other than the presumptive fixed duration or range in the appropriate cell on the applicable Grid. There are two types of durational departures: aggravated durational departures and mitigated durational departures. An aggravated durational departure occurs when the court pronounces a duration

<sup>2</sup> The most common reasons cited for dispositional departures, as submitted by the court and coded by MSGC staff. Up to four departure reasons and three plea agreement reasons are coded. There were 90 mitigated dispositional departures.



that is more than 20 percent higher than the fixed duration displayed in the appropriate cell on the applicable Grid. A mitigated durational departure occurs when the court pronounces a sentence that is more than 15 percent lower than the fixed duration displayed in the appropriate cell on the applicable Grid. Durational departure rates are presented by offense for executed sentences only (Figure 14).

Durational departure rates are influenced by changes in presumptive sentences. Prior to 2006, the presumptive sentences for sex offenses were found on the Standard Grid. Effective August 1, 2005, the ranges on the Standard Grid were increased to allow the court to pronounce a sentence without departure that is up to 20 percent greater than, or 15 percent less than, the presumptive number of months on the Standard Grid. For offenses committed after August 1, 2006, presumptive sentences are found on the Sex Offender Grid, which has longer presumptive sentences for repeat offenders and offenders with prior criminal history. Table 14 displays durational departure rates for executed prison sentences by which Grid determined the offender's presumptive sentence.

### Mitigated Durations

Fifteen percent of the 229 offenders who received executed prison sentences (other than life sentences) were given shorter sentences than recommended, a decrease from 19 percent in 2010 (Table 17). The most frequently cited reasons for the downward durational departures were: to prevent trauma to the victim from testifying (29%), and because the offender showed remorse or accepted responsibility (53%) (Table 9). In 2 of these cases (6%), the court indicated that the victim or victim's family agreed with the departure. In 79 percent of these cases, the court indicated either that there was a plea agreement for a mitigated duration or that the prosecutor recommended or did not object to the departure. There were two cases (6%) in which the court indicated that the prosecutor objected to the mitigated durational departure. It should be noted that no plea information was provided for 15 percent of cases receiving mitigated departures.

**Table 9. Mitigated Durational Departures:  
Most Frequently Cited Departure Reasons<sup>3</sup>**

Departure Reason	Percent of Departures with Reason Cited
Recommended by Victim/Victim's Family	6%
Prevent Trauma to Victim from Testifying	29%
Recommended by Court Services	9%
Shows Remorse/Accepts Responsibility	53%
Prosecutor Objects	6%
Prosecutor does not Object	21%
Recommended by Prosecutor	21%
Plea Negotiation	68%

<sup>3</sup> The most common reasons cited for mitigated durational departures, as submitted by sentencing judges and coded by MSGC staff. Up to four departure reasons and three plea agreement reasons are coded. There were 34 mitigated durational departures.

### Aggravated Durations

Five percent (12) of offenders who received executed prison sentences were given longer sentences than recommended, the same rate observed in 2010. The three percent rate observed in 2009 was the lowest aggravated durational departure rate ever observed for criminal sexual conduct offenses. Rates in the last three years have been lower than those observed in 2007 and 2008 (8%) and 2006 and 2005 (9% and 16%, respectively). This rate has declined somewhat since the 1990s, when rates as high as 27 percent were seen. A possible reason for some of the decline in the aggravated durational departure rate is that over time, more of the offenders sentenced for first-degree offenses and second-degree force offenses are eligible for the statutorily-set presumptive sentences. Other possible explanations for the decrease in aggravated durational departures include the impact of the *Blakely* decision and the implementation of the Sex Offender Grid. Aggravated durational departure rates are highest for offenders whose presumptive sentences are on the Standard Grid rather than on the Sex Offender Grid, which is to be expected due to the lower presumptive sentences and smaller sentencing ranges on the Standard Grid (Table 14).

The most frequently reason cited for the upward durational departures (other than plea negotiation) was that the crime was committed in the victim's zone of privacy (5 of the 12 cases). The court indicated that there was a plea agreement for an aggravated duration in seven of the upward durational departures and that the defendant waived jury determination of aggravating factors in two of the 12 cases. In three cases the court indicated that a jury determined that aggravating factors existed (Table 10). No information on the position of the prosecutor was cited in five of the aggravated durations. (For more detailed information on durational and dispositional departures over the past 12 years, see Tables 15 and 16.)

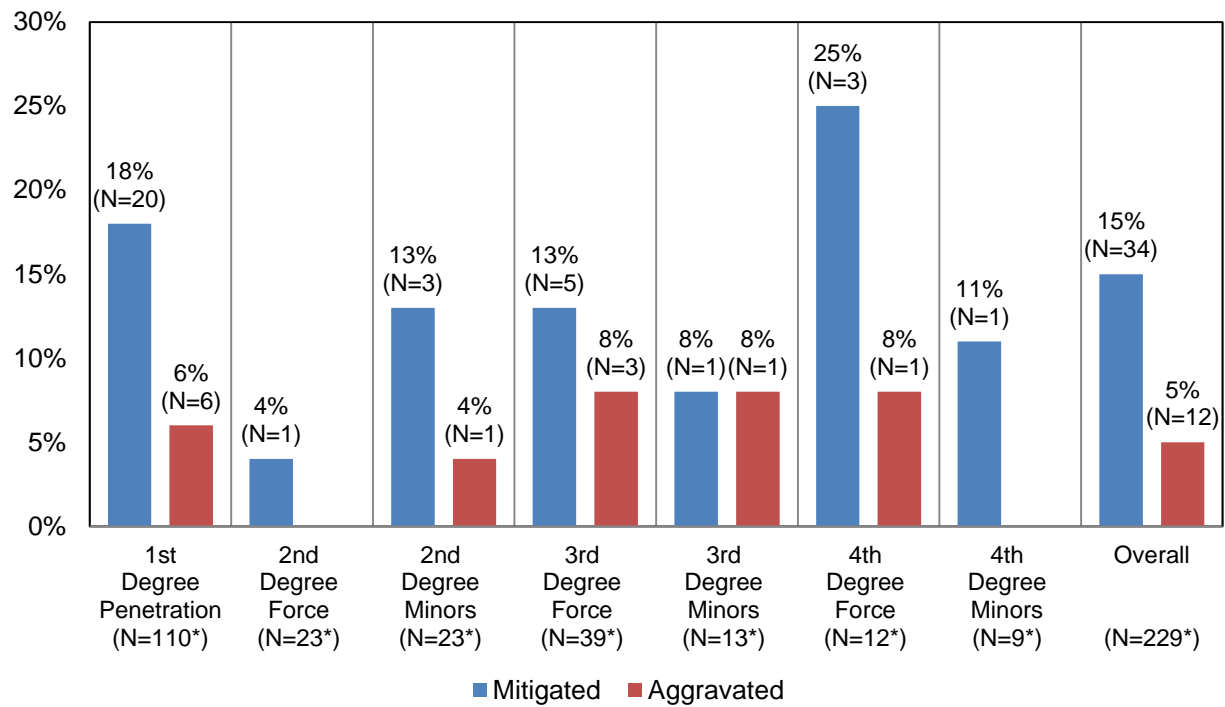
**Table 10. Aggravated Durational Departures:  
Most Frequently Cited Departure Reasons<sup>4</sup>**

Departure Reason	Percent of Departures with Reason Cited
Victim Vulnerability	25%
Particular Cruelty	25%
Previous Victim Injury or Previous CSC Offense	8%
Position of Authority	25%
Multiple Victims or Multiple incidents per victim	25%
Crime Committed in presence of children	25%
Crime Committed in Zone of Privacy	42%
Recommended by Prosecutor	17%
Plea Negotiation	58%
Defendant Waived Jury Determination of Aggravating Factors	17%
Jury Determination of Aggravating Factors	25%

\* Number of Executed Sentences.

<sup>4</sup> The most common reasons cited for mitigated durational departures, as submitted by sentencing judges and coded by MSGC staff. Up to four departure reasons and three plea agreement reasons are coded. There were 12 aggravated durational departures.

**Figure 14. Durational Departure Rates:  
Executed Sentences by Offense**



## Data Tables

**Table 11. Average Pronounced Prison Sentences 2011:  
By Offense and Applicable Grid**

Offense	All Offenders Sentenced in 2011		Cases Sentenced on Standard Grid			Cases Sentenced on Sex Offender Grid		
	# Prison Sentences	Avg. Duration	Sev. Level	# Prison Sent.	Avg. Duration	Sev. Level	# Prison Sent.	Avg. Duration
1st Degree Penetration	110	173 mos.	9	26	155 mos.	A	84	178 mos.
1st Degree Contact	0	---	8	0	---	A	0	---
2nd Degree Force	23	94 mos.	8	7	86 mos.	B	16	97 mos.
2nd Degree Minors	23	69 mos.	6	5	31 mos.	D	18	80 mos.
3rd Degree Force	39	74 mos.	8	5	70 mos.	C	34	75 mos.
3rd Degree Minors	13	74 mos.	5	1	36 mos.	D	12	77 mos.
4th Degree Force	12	85 mos.	6	0	---	E	12	85 mos.
4th Degree Minors	9	41 mos.	4	2	18 mos.	F	7	47 mos.
Total	229	122 mos.		46	113 mos.		183	124 mos.

**Table 12. Sentencing Practices:  
Incarceration Rates and Average Pronounced Durations: 1988-2011<sup>5</sup>**

Year	# Cases	Incarceration					
		Total Incarceration	Prison	Average Duration	Local Confinement	Average Duration	
1988	677	609 90%	180 27%	54 months	429 63%	178 days	
1989	688	630 92%	217 32%	58 months	413 60%	186 days	
1990	771	712 92%	231 30%	78 months	481 62%	191 days	
1991	725	670 92%	227 31%	82 months	443 61%	200 days	
1992	798	749 94%	239 30%	89 months	510 64%	186 days	
1993	828	764 92%	244 30%	84 months	520 63%	183 days	
1994	880	827 94%	279 32%	83 months	548 62%	195 days	
1995	770	714 93%	249 32%	87 months	465 60%	183 days	
1996	632	599 94%	236 37%	84 months	354 56%	206 days	
1997	635	599 94%	201 32%	81 months	398 63%	196 days	
1998	670	636 95%	255 38%	88 months	381 57%	192 days	
1999	567	529 94%	189 34%	86 months	340 60%	173 days	
2000	539	509 94%	194 36%	80 months	315 58%	185 days	
2001	512	481 94%	194 38%	99 months	287 56%	196 days	
2002	558	531 95%	197 35%	103 months	334 60%	179 days	
2003	607	566 93%	250 41%	116 months	316 52%	186 days	
2004	591	555 94%	204 35%	99 months	351 59%	183 days	
2005	590	561 95%	230 39%	102 months	331 56%	179 days	
2006	593	563 95%	220 37%	97 months	343 58%	173 days	
2007	586	559 95%	210 36%	106 months	369 60%	194 days	
2008	582	549 94%	229 39%	110 months	320 55%	180 days	
2009	579	534 92%	188 33%	100 months	346 60%	186 days	
2010	600	532 89%	233 39%	125 months	299 50%	184 days	
2011	582	551 95%	234 40%	122 months	317 55%	190 days	

<sup>5</sup> 2005-2010: Average prison durations exclude offenders who received life sentences.

**Table 13. Incarceration Rates and Average Pronounced Duration by Degree:  
1988-2011**

Year	Degree	# Cases	Total Incarceration		Prison		Average Duration	Local Confinement		Average Duration
<b>1988</b>	All Cases	677	609	90%	180	27%	54 mos.	429	63%	178 days
	First	136	133	98%	85	63%	75 mos.	48	35%	287 days
	Second	256	226	88%	47	18%	33 mos.	179	70%	187 days
	Third	120	111	93%	39	33%	38 mos.	72	60%	154 days
	Fourth	165	139	84%	9	6%	31 mos.	130	79%	138 days
<b>1989</b>	All Cases	688	630	92%	217	32%	58 mos.	413	60%	186 days
	First	165	157	95%	111	67%	78 mos.	46	28%	255 days
	Second	251	234	93%	45	18%	37 mos.	189	75%	199 days
	Third	136	126	93%	45	33%	37 mos.	81	60%	156 days
	Fourth	136	113	83%	16	12%	36 mos.	97	71%	151 days
<b>1990</b>	All Cases	771	712	92%	231	30%	78 mos.	481	62%	191 days
	First	196	193	99%	122	62%	104 mos.	71	36%	308 days
	Second	270	249	92%	52	19%	48 mos.	197	73%	184 days
	Third	170	156	92%	35	21%	53 mos.	121	71%	166 days
	Fourth	135	114	84%	22	16%	40 mos.	92	68%	148 days
<b>1991</b>	All Cases	725	670	92%	227	31%	82 mos.	443	61%	200 days
	First	182	173	95%	108	59%	118 mos.	65	36%	302 days
	Second	235	216	92%	50	21%	51 mos.	166	71%	203 days
	Third	159	147	93%	50	31%	54 mos.	97	61%	182 days
	Fourth	149	134	90%	19	13%	37 mos.	115	77%	151 days
<b>1992</b>	All Cases	798	749	94%	239	30%	89 mos.	510	64%	186 days
	First	167	158	95%	100	60%	126 mos.	58	35%	320 days
	Second	309	287	93%	73	24%	62 mos.	214	69%	182 days
	Third	199	188	95%	50	25%	63 mos.	138	69%	168 days
	Fourth	123	116	94%	16	13%	55 mos.	100	81%	142 days
<b>1993</b>	All Cases	828	764	92%	244	30%	84 mos.	520	63%	183 days
	First	194	188	97%	118	61%	118 mos.	70	36%	304 days
	Second	279	257	92%	55	20%	59 mos.	202	72%	190 days
	Third	211	189	90%	53	25%	50 mos.	136	65%	163 days
	Fourth	144	130	90%	18	13%	36 mos.	112	78%	120 days
<b>1994</b>	All Cases	880	827	94%	279	32%	83 mos.	548	62%	195 days
	First	193	188	97%	118	61%	131 mos.	70	36%	312 days
	Second	270	252	93%	62	23%	47 mos.	190	70%	205 days
	Third	260	246	95%	81	31%	52 mos.	165	64%	174 days
	Fourth	157	141	90%	18	12%	35 mos.	123	78%	142 days
<b>1995</b>	All Cases	770	714	93%	249	32%	87 mos.	465	60%	183 days
	First	161	157	98%	102	63%	137 mos.	55	34%	293 days
	Second	225	202	90%	61	27%	58 mos.	141	63%	177 days
	Third	258	238	92%	59	23%	54 mos.	179	69%	171 days
	Fourth	126	117	93%	27	21%	33 mos.	90	71%	147 days
<b>1996</b>	All Cases	632	590	93%	236	37%	84 mos.	354	56%	206 days
	First	153	155	96%	102	67%	131 mos.	48	31%	319 days
	Second	161	184	92%	44	27%	53 mos.	111	69%	211 days
	Third	200	184	92%	67	34%	52 mos.	117	59%	192 days

Year	Degree	# Cases	Total Incarceration		Prison		Average Duration	Local Confinement		Average Duration
	Fourth	118	101	86%	23	20%	32 mos.	78	66%	149 days
1997	All Cases	635	599	94%	201	32%	81 mos.	398	92%	196 days
	First	146	145	99%	88	60%	125 mos.	57	98%	322 days
	Second	186	164	88%	45	24%	61 mos.	119	84%	189 days
	Third	186	177	95%	43	23%	43 mos.	134	94%	178 days
	Fourth	114	110	96%	23	20%	33 mos.	87	96%	152 days
	Fifth	3	3	100%	2	67%	27 mos.	1	100%	114 days
1998	All Cases	670	636	94%	255	38%	88 mos.	381	92%	192 days
	First	160	155	96%	115	72%	129 mos.	40	89%	306 days
	Second	197	181	91%	60	31%	53 mos.	121	88%	205 days
	Third	197	189	95%	66	34%	59 mos.	123	94%	187 days
	Fourth	112	108	96%	13	12%	41 mos.	95	96%	134 days
	Fifth	5	3	60%	1	25%	41 mos.	2	67%	183 days
1999	All Cases	562	529	94%	189	34%	86 mos.	340	91%	173 days
	First	125	119	95%	82	66%	123 mos.	37	86%	314 days
	Second	153	147	96%	36	24%	72 mos.	111	95%	185 days
	Third	183	169	92%	50	27%	56 mos.	119	90%	151 days
	Fourth	101	94	93%	21	21%	36 mos.	73	91%	120 days
2000	All Cases	539	509	94%	194	36%	80 mos.	315	91%	185 days
	First	105	102	97%	73	70%	123 mos.	29	91%	332 days
	Second	155	149	96%	46	30%	63 mos.	103	95%	196 days
	Third	171	157	91%	55	32%	55 mos.	102	88%	153 days
	Fourth	104	98	94%	17	16%	33 mos.	81	93%	160 days
	Fifth	4	3	75%	3	75%	34 mos.	---	---	---
2001	All Cases	512	481	93%	194	38%	99 mos.	287	90%	196 days
	First	139	135	97%	96	69%	133 mos.	39	91%	313 days
	Second	128	118	92%	39	31%	80 mos.	79	89%	204 days
	Third	162	151	93%	45	28%	59 mos.	106	91%	185 days
	Fourth	79	73	92%	14	18%	47 mos.	59	91%	130 days
	Fifth	4	4	100%	0		---	4	100%	133 days
2002	All Cases	558	531	95%	197	35%	103 mos.	334	93%	179 days
	First	138	136	98%	108	78%	148 mos.	28	93%	309 days
	Second	148	136	91%	34	23%	56 mos.	102	90%	183 days
	Third	178	174	97%	39	22%	50 mos.	135	97%	172 days
	Fourth	94	85	90%	16	17%	29 mos.	69	89%	134 days
2003	All Cases	607	566	93%	250	41%	116 mos.	316	52%	186 days
	First	170	160	94%	123	72%	175 mos.	37	22%	327 days
	Second	133	124	93%	44	33%	57 mos.	80	60%	194 days
	Third	189	175	93%	58	31%	60 mos.	117	62%	171 days
	Fourth	111	103	93%	24	22%	61 mos.	79	71%	137 days
	Fifth	4	4	100%	1	25%	30 mos.	3	75%	60 days
2004	All Cases	591	555	94%	204	35%	99 mos.	351	59%	183 days
	First	137	134	98%	95	69%	148 mos.	39	29%	335 days
	Second	146	132	90%	42	29%	75 mos.	90	62%	178 days
	Third	208	195	94%	53	26%	51 mos.	142	68%	172 days

Year	Degree	# Cases	Total Incarceration		Prison		Average Duration	Local Confinement		Average Duration
	Fourth	100	94	94%	14	14%	33 mos.	80	80%	133 days
2005	All Cases	590	561	95%	230	39%	102 mos.	331	56%	179 days
	First	148	145	98%	111	75%	150 mos.	34	23%	318 days
	Second	145	136	94%	52	36%	66 mos.	84	58%	196 days
	Third	202	194	96%	57	28%	57 mos.	137	68%	157 days
	Fourth	95	86	91%	10	11%	30 mos.	76	80%	138 days
2006	All Cases	593	563	95%	220	37%	97 mos.	343	58%	173 days
	First	130	127	98%	96	74%	156 mos.	31	24%	319 days
	Second	146	137	94%	43	30%	63 mos.	94	64%	191 days
	Third	207	195	94%	64	31%	49 mos.	131	63%	153 days
	Fourth	109	103	95%	16	15%	29 mos.	87	80%	132 days
	Fifth	1	1	100%	1	100%	49 mos.	---	---	---
2007	All Cases	586	559	95%	210	36%	106 mos.	349	60%	194 days
	First	122	119	98%	85	70%	165 mos.	34	28%	346 days
	Second	142	139	98%	52	37%	78 mos.	87	61%	203 days
	Third	217	204	94%	59	27%	58 mos.	145	67%	171 days
	Fourth	105	97	92%	14	13%	47 mos.	83	79%	160 days
2008	All Cases	582	549	94%	229	39%	110 mos.	320	55%	180 days
	First	144	138	96%	103	72%	163 mos.	35	24%	328 days
	Second	134	126	94%	48	36%	89 mos.	78	58%	208 days
	Third	201	187	93%	62	31%	56 mos.	125	62%	161 days
	Fourth	103	98	95%	16	16%	43 mos.	82	80%	120 days
2009	All Cases	579	534	92%	188	33%	100 mos.	346	60%	186 days
	First	105	103	98%	75	71%	149 mos.	28	27%	332 days
	Second	147	132	90%	37	25%	83 mos.	95	65%	209 days
	Third	206	196	95%	61	30%	64 mos.	135	66%	165 days
	Fourth	118	100	85%	15	13%	44 mos.	85	72%	146 days
	Fifth	3	3	100%	0		---	3	100%	192 days
2010	All Cases	600	532	89%	233	39%	125 mos.	299	50%	184 days
	First	143	139	97%	113	79%	183 mos.	26	18%	326 days
	Second	141	122	87%	48	34%	83 mos.	74	53%	207 days
	Third	200	177	89%	59	30%	67 mos.	118	59%	154 days
	Fourth	115	93	81%	13	11%	44 mos.	80	70%	163 days
	Fifth	1	1	100%	0		---	1	100%	55 days
2011	All Cases	582	551	95%	234	40%	122 mos.	317	55%	190 days
	First	150	148	99%	114	76%	173 mos.	34	23%	314 days
	Second	127	118	93%	47	37%	81 mos.	71	56%	198 days
	Third	214	199	93%	52	24%	74 mos.	147	69%	178 days
	Fourth	89	84	94%	21	24%	66 mos.	63	71%	143 days
	Fifth	2	2	100%	0		---	2	100%	149 days



**Table 14. 2011 Durational Departure Rates by Offense and Applicable Grid  
Executed Prison Sentences Only**

Offense	Offenders Sentenced on Pre 8/1/05 Grids			Cases Sentenced on Grid Effective 8/1/05			Cases Sentenced on Sex Offender Grid		
	# Prison	Mit. Dep. Rate	Agg. Dep. Rate	# Prison	Mit. Dep. Rate	Agg. Dep. Rate	# Prison	Mit. Dep. Rate	Agg. Dep. Rate
1st Degree Penetration	20	20%	15%	6	17%	17%	84	18%	2%
1st Degree Contact	0	---	---	0	---	---	0	---	---
2nd Degree Force	4	25%	0%	3	0%	0%	16	0%	0%
2nd Degree Minors	4	25%	25%	1	0%	0%	18	11%	0%
3rd Degree Force	4	0%	50%	1	0%	100%	34	9%	6%
3rd Degree Minors	0	---	---	1	0%	100%	12	8%	0%
4th Degree Force	0	---	---	0	---	---	12	25%	8%
4th Degree Minors	2	0%	0%	0	---	---	7	14%	0%
Total	34	24%	12%	12	8%	25%	183	14%	3%

Table 15. Departure Rates: 1988-2011

Year	# Cases	Mitigated Dispositional Departures		Durational Departures Executed Sentences		
		# Presumptive Commits	# Receiving Probation	# Executed Sentences	Aggravated Duration	Mitigated Duration
1988	677	273 (40%)	101 (37%)	180	19 (11%)	19 (11%)
1989	688	319 (46%)	110 (35%)	217	29 (13%)	20 (9%)
1990	771	365 (47%)	144 (40%)	231	50 (22%)	39 (17%)
1991	725	334 (46%)	121 (36%)	227	44 (19%)	37 (16%)
1992	798	353 (44%)	129 (37%)	239	50 (21%)	30 (13%)
1993	828	360 (44%)	136 (38%)	244	45 (18%)	41 (17%)
1994	880	408 (46%)	148 (36%)	279	61 (22%)	38 (14%)
1995	770	346 (45%)	118 (34%)	249	59 (24%)	40 (16%)
1996	632	317 (50%)	97 (31%)	236	63 (27%)	28 (12%)
1997	635	288 (45%)	107 (37%)	201	41 (20%)	44 (22%)
1998	670	326 (49%)	86 (26%)	255	55 (22%)	32 (13%)
1999	562	245 (44%)	80 (33%)	189	45 (24%)	18 (10%)
2000	539	248 (46%)	67 (27%)	194	46 (24%)	39 (20%)
2001	512	250 (49%)	66 (26%)	194	49 (25%)	36 (19%)
2002	558	241 (43%)	60 (25%)	197	41 (21%)	36 (18%)
2003	607	323 (53%)	95 (29%)	250	57 (23%)	48 (19%)
2004	591	288 (49%)	103 (36%)	204	41 (20%)	43 (21%)
2005	590	299 (51%)	82 (27%)	230	36 (16%)	41 (18%)
2006	593	281 (47%)	77 (27%)	220	20 (9%)	44 (20%)
2007	586	278 (47%)	86 (31%)	210	17 (8%)	36 (17%)
2008	582	288 (49%)	80 (28%)	229	18 (8%)	40 (18%)
2009	579	247 (43%)	74 (30%)	186	6 (3%)	39 (21%)
2010	600	296 (49%)	74 (25%)	231	12 (5%)	43 (19%)
2011	582	314 (54%)	90 (29%)	229	12 (5%)	34 (15%)

Table 16. Departure Rates by Degree: 1997-2011

Year	Degree	# Cases	Mitigated Dispositional Departures			Durational Departures (Executed Sentences)				
			# Presumptive Commits	# Receiving Probation		# Executed Sentences	Aggravated Duration		Mitigated Duration	
1997	All Cases	635	288	107	37%	201	41	20%	44	22%
	First	146	146	58	40%	88	20	23%	20	23%
	Second	186	52	13	25%	45	10	22%	10	22%
	Third	186	69	29	42%	43	6	14%	9	21%
	Fourth	114	21	7	33%	23	4	17%	5	22%
	Fifth	3	0	0		2	1	50%	0	
1998	All Cases	670	326	86	26%	255	55	22%	32	13%
	First	160	160	45	28%	115	28	24%	12	10%
	Second	197	65	15	23%	60	14	23%	7	12%
	Third	197	88	24	27%	66	9	14%	12	18%
	Fourth	112	12	2	17%	13	4	31%	1	8%
	Fifth	5	1	0		1	0		0	
1999	All Cases	562	245	80	33%	189	45	24%	18	10%
	First	125	125	43	34%	82	18	22%	11	13%
	Second	153	34	9	27%	36	13	36%	1	3%
	Third	183	73	27	37%	50	12	24%	4	8%
	Fourth	101	13	1	8%	21	2	10%	2	10%
	Fifth	0	---	---		---	---		---	
2000	All Cases	539	248	67	27%	194	46	24%	39	20%
	First	105	105	32	31%	73	19	26%	17	23%
	Second	155	50	11	22%	46	14	30%	6	13%
	Third	171	72	21	29%	55	9	16%	12	22%
	Fourth	104	18	2	11%	17	2	12%	4	24%
	Fifth	4	3	1	33%	3	2	67%	0	
2001	All Cases	512	250	66	26%	194	49	25%	36	19%
	First	139	139	43	31%	96	23	24%	19	20%
	Second	128	42	9	21%	39	13	33%	4	10%
	Third	162	58	13	22%	45	8	18%	11	24%
	Fourth	79	11	1	9%	14	5	36%	2	14%
	Fifth	4	0	0		0	0		0	

Year	Degree	# Cases	Mitigated Dispositional Departures			Durational Departures (Executed Sentences)				
			# Presumptive Commits	# Receiving Probation		# Executed Sentences	Aggravated Duration		Mitigated Duration	
2002	All Cases	558	241	60	25%	197	41	21%	36	18%
	First	138	138	30	22%	108	25	23%	21	19%
	Second	148	39	10	26%	34	9	27%	4	12%
	Third	178	52	19	37%	39	6	15%	8	21%
	Fourth	94	12	1	8%	16	1	6%	3	19%
	Fifth	0	---	---		---	---		---	
2003	All Cases	607	323	95	29%	250	57	23%	48	19%
	First	170	170	47	28%	123	33	27%	30	24%
	Second	133	51	17	33%	44	10	23%	8	18%
	Third	189	77	27	35%	58	9	16%	8	14%
	Fourth	111	24	4	17%	24	5	21%	2	8%
	Fifth	4	1	0		1	0		0	
2004	All Cases	591	288	103	36%	204	41	20%	43	21%
	First	137	137	42	31%	95	20	21%	25	26%
	Second	146	55	20	36%	42	10	24%	6	14%
	Third	208	81	36	44%	53	10	19%	12	23%
	Fourth	100	15	5	33%	14	1	7%	0	
2005	All Cases	590	299	82	27%	230	36	16%	41	18%
	First	148	148	37	25%	111	18	16%	24	22%
	Second	145	61	16	26%	52	9	17%	11	21%
	Third	202	81	25	31%	57	8	14%	5	9%
	Fourth	95	9	4	44%	10	1	10%	1	10%
2006	All Cases	593	281	77	27%	220	20	9%	44	20%
	First	130	130	34	26%	96	12	13%	20	21%
	Second	146	56	16	29%	43	3	7%	10	23%
	Third	207	82	24	29%	64	2	3%	11	17%
	Fourth	109	12	3	25%	16	2	13%	3	19%
	Fifth	1	1	0		1	1	100%	0	

Year	Degree	# Cases	Mitigated Dispositional Departures			Durational Departures (Executed Sentences)				
			# Presumptive Commits	# Receiving Probation		# Executed Sentences	Aggravated Duration		Mitigated Duration	
2007	All Cases	586	278	86	31%	210	17	8%	36	17%
	First	122	122	37	30%	85	11	13%	14	17%
	Second	142	60	16	27%	52	3	6%	6	12%
	Third	217	82	29	35%	59	3	5%	13	22%
	Fourth	105	14	4	29%	14	0	---	3	21%
2008	All Cases	582	288	80	28%	229	18	8%	40	18%
	First	144	144	41	29%	103	9	9%	23	22%
	Second	134	52	10	19%	48	6	13%	6	13%
	Third	201	79	27	34%	62	2	3%	7	11%
	Fourth	103	13	2	15%	16	1	6%	4	25%
2009	All Cases	579	247	74	30%	186	6	3%	39	21%
	First	105	105	30	29%	73	2	3%	20	27%
	Second	147	48	14	29%	37	2	5%	5	14%
	Third	206	79	24	30%	61	2	3%	12	20%
	Fourth	118	14	5	36%	15	0	--	2	13%
	Fifth	3	1	1	100%	0				
2010	All Cases	600	296	74	25%	231	12	5%	43	19%
	First	143	143	30	21%	112	9	8%	27	24%
	Second	141	57	14	25%	48	1	2%	3	6%
	Third	200	80	24	30%	58	2	3%	11	19%
	Fourth	115	16	6	38%	13	0	---	2	15%
	Fifth	1	0		---	0				
2011	All Cases	582	314	90	29%	229	12	5%	34	15%
	First	150	150	36	24%	110	6	6%	20	18%
	Second	127	49	8	16%	46	1	2%	4	9%
	Third	214	94	43	46%	52	4	8%	6	12%
	Fourth	89	21	3	14%	21	1	5%	4	19%
	Fifth	2	0		---	0				

**Table 17. Victim Age by Child/Other Statutory Provisions  
Criminal Sexual Conduct Offenses: 2011 <sup>6</sup>**

Degree	Provision	Age of Victim				Total # Cases
		Less than 13	13-17	Adult	Unknown	
First	Child	81 (66%)	41 (34%)	0 ---	0 ---	122 (81%)
	Force/Other	1 (4%)	4 (14%)	23 (82%)	0 ---	28 (19%)
	Total	82 (55%)	45 (30%)	23 (15%)	0 ---	150 (100%)
Second	Child	101 (82%)	22 (18%)	0 ---	0 ---	123 (97%)
	Force/Other	0 ---	0 ---	4 (100%)	0 ---	4 (3%)
	Total	101 (80%)	22 (17%)	4 (3%)	0 ---	127 (100%)
Third	Child	1 (1%)	147 (99%)	0 ---	0 ---	148 (69%)
	Force/Other	3 (5%)	13 (20%)	46 (70%)	4 (6%)	66 (31%)
	Total	4 (2%)	160 (75%)	46 (22%)	4 (2%)	214 (100%)
Fourth	Child	1 (2%)	41 (98%)	0 ---	0 ---	42 (47%)
	Force/Other	4 (9%)	5 (11%)	38 (81%)	0 ---	47 (53%)
	Total	5 (6%)	46 (52%)	38 (43%)	0 ---	89 (100%)
Fifth	Child	0 ---	1 (50%)	0 ---	1 (50%)	2 (100%)
Total	Child	184 (42%)	252 (58%)	0 ---	1 (<1%)	437 (75%)
	Force/Other	8 (6%)	22 (15%)	111 (77%)	4 (3%)	145 (25%)
	Total	192 (33%)	274 (47%)	111 (19%)	5 (1%)	582 (100%)

<sup>6</sup> The CSC offenses are grouped within each degree by statutory provisions that either specify that the victim was a child or do not specify the victim's age.

**Table 18. Victim-Offender Relationship by Child / Other Statutory Provisions  
Criminal Sexual Conduct Offenses: 2011 <sup>7</sup>**

Degree	Provision	Relationship Between Victim and Offender						Total # Cases
		Family	Position Authority	Occupation	Acquaintance	Stranger	Unknown	
First	Child	84 (69%)	13 (11%)	0 ---	23 (19%)	2 (2%)	0 ---	122 (81%)
	Force/Other	1 (4)	0 ---	0 ---	12 (43%)	15 (54%)	0 ---	28 (19%)
	Total	85 (57%)	13 (9%)	0 ---	35 (23%)	17 (11%)	0 ---	150 (100%)
Second	Child	73 (59%)	11 (9%)	0 ---	37 (30%)	1 (1%)	1 (1%)	123 (97%)
	Force/Other	0 ---	0 ---	0 ---	3 (75%)	1 (25%)	0 ---	4 (3%)
	Total	73 (58%)	11 (9%)	0 ---	40 (32%)	2 (2%)	1 (1%)	127 (100%)
Third	Child	12 (8%)	10 (7%)	0 ---	122 (82%)	1 (1%)	3 (2%)	148 (69%)
	Force/Other	10 (15%)	0 ---	1 (2%)	42 (64%)	12 (18%)	1 (2%)	66 (31%)
	Total	22 (10%)	10 (5%)	1 (1%)	164 (77%)	13 (6%)	4 (2%)	214 (100%)
Fourth	Child	9 (21%)	9 (21%)	0 ---	24 (57%)	0 ---	0 ---	42 (47%)
	Force/Other	10 (21%)	1 (2%)	1 (2%)	25 (53%)	6 (13%)	4 (9%)	47 (53%)
	Total	19 (21%)	10 (11%)	1 (1%)	49 (55%)	6 (7%)	4 (5%)	89 (100%)
Fifth	Child	0 ---	0 ---	0 ---	0 ---	1 (50%)	1 (50%)	2 (100%)
Total	Child	178 (41%)	43 (10%)	0 ---	206 (47%)	5 (1%)	5 (1%)	437 (75%)
	Force/Other	21 (15%)	1 (1%)	2 (1%)	82 (57%)	34 (23%)	5 (3%)	145 (25%)
	Total	199 (34%)	44 (8%)	2 (<1%)	288 (50%)	39 (7%)	10 (2%)	582 (100%)

<sup>7</sup> The CSC offenses are grouped within each degree by statutory provisions that either specify that the victim was a child or do not specify the victim's age. The "Occupation" category refers to statutes specifying the occupation of the offender e.g.: psychotherapist, health care professional, clergy, correctional employee, or special transportation service employee or if one of the specified occupations was indicated by the MOC code, regardless of how the offense was charged.

Table 19. Number of Offenders Sentenced for CSC Offenses by Statutory Provision: 2007-2011

Offense Severity Levels <sup>8</sup> Presumptive Sentence with No Criminal History	Statute Number	Offense	# Offenders Sentenced				
			2007	2008	2009	2010	2011
<b>First Degree Penetration</b>  <b>Severity Level 9/A</b> <b>144 Months</b>	609.342 s. 1(a)	Victim under 13, Actor 3 years older	57	67	49	68	67
	609.342 s. 1(b)	Victim 13-16, Actor 4 years older & Pos. Authority	8	14	11	16	18
	609.342 s. 1(c)	Fear Great Bodily Harm	10	11	5	3	12
	609.342 s. 1(d)	Dangerous Weapon	4	1	0	3	1
	609.342 s. 1(e)(i)	Personal Injury and Uses Force or Coercion	15	16	14	16	13
	609.342 s. 1(e)(ii)	Personal Injury and Victim Impaired/Incapacitated	2	1	1	2	2
	609.342 s. 1(f)(i)	Accomplice and use Force or Coercion	1	0	0	0	0
	609.342 s. 1(f)(ii)	Accomplice and Dangerous Weapon	0	0	0	0	0
	609.342 s. 1(g)	Victim under 16, Significant Relationship	18	18	17	19	15
	609.342 s. 1(h)(i)	Under 16, Sig. Relation. and Force or Coercion	1	0	0	1	0
	609.342 s. 1(h)(ii)	Under 16, Sig. Relation. and Personal Injury	0	0	1	0	0
	609.342 s. 1(h)(iii)	Under 16, Sig. Relation. and Multiple Acts	4	16	7	15	22
<b>First Degree Contact</b> <b>Severity Level 8/A</b> <b>144 Months</b>	609.342 s. 1(a)	Criminal Sexual Conduct 1 – Contact, Victim under 13, genital to genital contact as defined in 609.341 s. 11 (c)	2	0	0	0	0
<b>Second Degree Contact</b> <b>Severity Level 6/D</b> <b>21/36 Months (Stayed)</b>	609.343 s. 1(a)	Contact Victim under 13, Actor 3 years older	79	69	83	79	74
	609.343 s. 1(b)	Victim 13-16, Actor 4 years older & Pos. Authority	15	10	18	10	7
	609.343 s. 1(g)	Victim under 16, Significant Relationship	8	22	14	13	17
<b>Second Degree Contact</b>  <b>Severity Level 8/B</b> <b>90 Months</b>	609.343 s. 1(c)	Fear Great Bodily Harm	3	2	2	4	1
	609.343 s. 1(d)	Dangerous Weapon	1	0	0	0	0
	609.343 s. 1(e)(i)	Personal Injury and Uses Force or Coercion	3	1	4	5	3
	609.343 s. 1(e)(ii)	Personal Injury and Victim Impaired/Incapacitated	1	1	3	1	0
	609.343 s. 1(f)(i)	Accomplice and use Force or Coercion	4	1	1	0	0
	609.343 s. 1(f)(ii)	Accomplice and Dangerous Weapon	0	0	0	0	0
	609.343 s. 1(h)(i)	Under 16, Sig. Relation. and Force or Coercion	0	3	2	5	1

<sup>8</sup> Standard Grid/Sex Offender Grid



Offense Severity Levels <sup>8</sup> Presumptive Sentence with No Criminal History	Statute Number	Offense	# Offenders Sentenced				
			2007	2008	2009	2010	2011
	609.343 s. 1(h)(ii)	Under 16, Sig. Relation. and Personal Injury	1	1	1	0	1
	609.343 s. 1(h)(iii)	Under 16, Sig. Relation. and Multiple Acts	27	24	19	24	23
Third Degree Penetration Unranked/D	609.344 s. 1(a)	Criminal Sexual Conduct 3 – Penetration Victim under 13, perpetrator must be a juvenile	0	0	1	1	0
Third Degree Penetration Severity Level 5/D 18/24 Months (Stayed)	609.344 s. 1(b)	Victim 13-16, Actor 2 years older	153	138	136	137	133
	609.344 s. 1(e)	Victim 16-18, Actor 4 years older & Pos. Authority	5	5	9	4	6
	609.344 s. 1(f)	Victim 16-18, Significant Relationship	2	2	7	3	7
Third Degree Penetration Severity Level 8/C 48 Months	609.344 s. 1(c)	Force or Coercion	33	29	24	34	31
	609.344 s. 1(d)	Victim Mentally Impaired/Incapacitated	19	20	23	19	34
	609.344 s. 1(g)(i)	Sig. Relation. and Force or Coercion	0	0	0	0	0
	609.344 s. 1(g)(ii)	Sig. Relation. and Personal Injury	1	0	0	0	0
	609.344 s. 1(g)(iii)	Sig. Relation. and Multiple Acts over Time	3	4	4	3	2
	609.344 s. 1(h)	Psychotherapist – Patient	0	1	0	0	0
	609.344 s. 1(i)	Psychotherapist-Former Patient Emotional Dependent	0	0	0	0	0
	609.344 s. 1(j)	Psychotherapist & Therapeutic Deception	0	0	0	0	0
	609.344 s. 1(k)	Deception/False Rep. for Medical Purpose	0	1	0	0	0
	609.344 s. 1(l)	Clergy	0	1	0	0	1
	609.344 s. 1(m)	Correctional Employee	1	0	1	1	0
	609.344 s. 1(n)	Special Transportation Service	0	0	0	0	0
	609.344 s. 1(o)	Massage Therapist	19	20	1	0	0
Fourth Degree Contact Unranked/F	609.345 s. 1(a)	Criminal Sexual Conduct 4 – Contact Victim under 13, perpetrator must be a juvenile	0	0	0	1	0
Fourth Degree Contact Severity Level 4/F 1Yr, 1Day/ 15 Months (Stayed)	609.345 s. 1(b)	Victim 13-16, Actor 4 years older or Pos. Authority	55	50	53	54	33
	609.345 s. 1(e)	Victim 16-18, Actor 4 years older & Pos. Authority	1	1	2	7	5
	609.345 s. 1(f)	Victim 16-18, Significant Relationship	3	1	8	3	4

Offense Severity Levels <sup>8</sup> Presumptive Sentence with No Criminal History	Statute Number	Offense	# Offenders Sentenced				
			2007	2008	2009	2010	2011
<b>Fourth Degree Contact</b>  <b>Severity Level 6/E</b> <b>21/24 Months (Stayed)</b>	609.345 s. 1(c)	Force or Coercion	24	18	18	26	24
	609.345 s. 1(d)	Victim Mentally Impaired/Incapacitated	20	31	31	19	21
	609.345 s. 1(g)(i)	Sig. Relation. and Force or Coercion	0	0	0	1	0
	609.345 s. 1(g)(ii)	Sig. Relation. and Personal Injury	1	0	0	0	0
	609.345 s. 1(g)(iii)	Sig. Relation. and Multiple Acts over Time	1	0	0	2	0
	609.345 s. 1(h)	Psychotherapist – Patient	0	1	0	0	0
	609.345 s. 1(i)	Psychotherapist-Former Patient Emotional Dependent	0	0	0	0	0
	609.345 s. 1(j)	Psychotherapist & Therapeutic Deception	0	0	0	0	0
	609.345 s. 1(k)	Deception/False Rep. for Medical Purpose	0	0	0	0	0
	609.345 s. 1(l)	Clergy	0	0	1	0	0
	609.345 s. 1(m)	Correctional Employee	0	1	1	1	0
	609.345 s. 1(n)	Special Transportation Service	0	0	2	1	0
	609.345 s. 1(o)	Massage Therapist	20	31	2	0	2
<b>Fifth Degree Contact</b> <b>Severity Level 4/G</b> <b>1Yr, 1Day</b> <b>15 Months (Stayed)</b>	609.3451 s. 3	Criminal Sexual Conduct 5 Violate 609.3451 s. 1, clause (2) after previous conviction	0	0	3	1	2

The following table displays the number of offenders sentenced and sentencing practices from 2009-2011 by the statutory provision they were sentenced for. Included is the number of cases, number of cases for which prison was the presumptive sentence, number and percent receiving an executed prison sentence, the average pronounced sentence in months, and the number and rate of mitigated dispositional departures (percent of presumptive commits who received probation).

**Table 20. Sentencing Practices for CSC Offenses by Statutory Provision:  
Combined Data for Cases Sentenced 2009-2011**

Offense Severity Levels <sup>9</sup> Presumptive Sentence with No Criminal History	Statute Number	Offense	# Cases	# Presumptive Prison	Prison Sentence Number and Rate		Av. Sent. In Months	Mitigated Dispositional Departures Number and Rate	
<b>First Degree Penetration</b>  <b>Severity Level 9/A</b> <b>144 Months</b>	609.342 s.1(a)	Victim under 13, Actor 3 years older	184	184	128	70%	156	56	30%
	609.342 s.1(b)	Victim 13-16, Actor 4 years older & Pos. Authority	45	45	37	82%	191	8	18%
	609.342 s.1(c)	Fear Great Bodily Harm	18	18	17	94%	179	1	6%
	609.342 s.1(d)	Dangerous Weapon	4	4	4	100%	190	0	0%
	609.342 s.1(e)(i)	Personal Injury and Uses Force or Coercion	42	42	38	91%	202	4	10%
	609.342 s.1(e)(ii)	Personal Injury and Victim Impaired/Incapacitated	5	5	5	100%	151	0	0%
	609.342 s.1(f)(i)	Accomplice and use Force or Coercion	0	0	-	-	-	-	-
	609.342 s.1(f)(ii)	Accomplice and Dangerous Weapon	0	0	-	-	-	-	-
	609.342 s.1(g)	Victim under 16, Significant Relationship	51	51	31	61%	164	20	39%
	609.342 s.1(h)(i)	Under 16, Sig. Relation. and Force or Coercion	1	1	1	100%	144	0	0%
	609.342 s.1(h)(ii)	Under 16, Sig. Relation. and Personal Injury	1	1	0	0%	-	1	100%
	609.342 s.1(h)(iii)	Under 16, Sig. Relation. and Multiple Acts	44	44	38	86%	174	6	14%
<b>First Degree Contact</b> <b>Severity Level 8/A</b> <b>144 Months</b>	609.342 s.1(a)	Criminal Sexual Conduct 1 – Contact, Victim under 13, genital to genital contact as defined in 609.341 s.11 (c)	0	-	-	-	-	-	-
<b>Second Degree Contact</b> <b>Severity Level 6/D</b> <b>21/36 Months (Stayed)</b>	609.343 s.1(a)	Contact Victim under 13, Actor 3 years older	236	46	50	21%	67	7	15%
	609.343 s.1(b)	Victim 13-16, Actor 4 years older & Pos. Authority	35	6	5	14%	94	2	33%
	609.343 s.1(g)	Victim under 16, Significant Relationship	44	2	4	9%	67	0	0%

<sup>9</sup> Standard Grid/Sex Offender Grid

Offense Severity Levels <sup>9</sup> Presumptive Sentence with No Criminal History	Statute Number	Offense	# Cases	# Presumptive Prison	Prison Sentence Number and Rate		Av. Sent. In Months	Mitigated Dispositional Departures Number and Rate	
<b>Second Degree Contact</b>  <b>Severity Level 8/B</b> <b>90 Months</b>	609.343 s.1(c)	Fear Great Bodily Harm	7	7	5	71%	106	2	29%
	609.343 s.1(d)	Dangerous Weapon	0	0	-	-	-	-	-
	609.343 s.1(e)(i)	Personal Injury and Uses Force or Coercion	12	12	7	58%	108	5	42%
	609.343 s.1(e)(ii)	Personal Injury and Victim Impaired/Incapacitated	4	4	4	100%	90	0	0%
	609.343 s.1(f)(i)	Accomplice and use Force or Coercion	1	1	1	100%	110	0	0%
	609.343 s.1(f)(ii)	Accomplice and Dangerous Weapon	0	0	-	-	-	-	-
	609.343 s.1(h)(i)	Under 16, Sig. Relation. and Force or Coercion	8	8	4	50%	89	4	50%
	609.343 s.1(h)(ii)	Under 16, Sig. Relation. and Personal Injury	2	2	2	100%	101	0	0%
	609.343 s.1(h)(iii)	Under 16, Sig. Relation. and Multiple Acts	66	66	50	76%	91	16	24%
<b>Third Degree Penetration Unranked/D</b>	609.344 s.1(a)	Criminal Sexual Conduct 3 – Penetration Victim under 13, perpetrator must be a juvenile	2	0	0	0%	-	-	-
<b>Third Degree Penetration</b> <b>Severity Level 5/D</b> <b>18/24 Months (Stayed)</b>	609.344 s.1(b)	Victim 13-16, Actor 2 years older	406	66	51	13%	63	24	36%
	609.344 s.1(e)	Victim 16-18, Actor 4 years older & Pos. Authority	19	4	1	5%	119	3	75%
	609.344 s.1(f)	Victim 16-18, Significant Relationship	17	7	6	35%	80	2	29%
<b>Third Degree Penetration</b>  <b>Severity Level 8/C</b> <b>48 Months</b>	609.344 s.1(c)	Force or Coercion	88	88	64	73%	67	24	27%
	609.344 s.1(d)	Victim Mentally Impaired/Incapacitated	76	76	45	59%	72	31	41%
	609.344 s.1(g)(i)	Sig. Relation. and Force or Coercion	0	0	-	-	-	-	-
	609.344 s.1(g)(ii)	Sig. Relation. and Personal Injury	0	0	-	-	-	-	-
	609.344 s.1(g)(iii)	Sig. Relation. and Multiple Acts over Time	7	7	4	57%	73	3	43%
	609.344 s.1(h)	Psychotherapist - Patient	0	0	-	-	-	-	-
	609.344 s.1(i)	Psychotherapist-Former Patient Emotional Dependent	0	0	-	-	-	-	-
	609.344 s.1(j)	Psychotherapist & Therapeutic Deception	0	0	-	-	-	-	-
	609.344 s.1(k)	Deception/False Rep. for Medical Purpose	0	0	-	-	-	-	-
	609.344 s.1(l)	Clergy	1	1	0	0%	-	1	100%
	609.344 s.1(m)	Correctional Employee	2	2	0	0%	-	2	100%
	609.344 s.1(n)	Special Transportation Service	0	0	-	-	-	-	-
	609.344 s.1(o)	Massage Therapist	1	1	0	0%	-	1	100%

Offense Severity Levels <sup>9</sup> Presumptive Sentence with No Criminal History	Statute Number	Offense	# Cases	# Presumptive Prison	Prison Sentence Number and Rate		Av. Sent. In Months	Mitigated Dispositional Departures Number and Rate	
Fourth Degree Contact Unranked/F	609.345 s.1(a)	Criminal Sexual Conduct 4 – Contact Victim under 13, perpetrator must be a juvenile	1	0	0	0%	-	-	-
Fourth Degree Contact Severity Level 4/F 1Yr, 1Day/ 15 Months (Stayed)	609.345 s.1(b)	Victim 13-16, Actor 4 years older or Pos. Authority	140	24	23	16%	46	4	17%
	609.345 s.1(e)	Victim 16-18, Actor 4 years older & Pos. Authority	14	4	3	21%	31	2	50%
	609.345 s.1(f)	Victim 16-18, Significant Relationship	15	3	2	13%	65	1	33%
Fourth Degree Contact Severity Level 6/E 21/24 Months (Stayed)	609.345 s.1(c)	Force or Coercion	68	10	9	13%	72	3	30%
	609.345 s.1(d)	Victim Mentally Impaired/Incapacitated	71	10	11	16%	52	4	40%
	609.345 s.1(g)(i)	Sig. Relation. and Force or Coercion	1	0	0	0%	-	-	-
	609.345 s.1(g)(ii)	Sig. Relation. and Personal Injury	0	-	-	-	-	-	-
	609.345 s.1(g)(iii)	Sig. Relation. and Multiple Acts over Time	2	0	0	0%	-	-	-
	609.345 s.1(h)	Psychotherapist - Patient	0	-	-	0%	-	-	-
	609.345 s.1(i)	Psychotherapist-Former Patient Emotional Dep.	0	-	-	-	-	-	-
	609.345 s.1(j)	Psychotherapist & Therapeutic Deception	0	-	-	-	-	-	-
	609.345 s.1(k)	Deception/False Rep. for Medical Purpose	0	-	-	-	-	-	-
	609.345 s.1(l)	Clergy	1	0	0	0%	-	-	-
	609.345 s.1(m)	Correctional Employee	2	0	0	0%	-	-	-
	609.345 s.1(n)	Special Transportation Service	3	0	0	0%	-	-	-
	609.345 s.1(o)	Massage Therapist	4	0	1	25%	132	-	-
Fifth Degree Contact Severity Level 4/G 1Yr, 1Day 15 Months (Stayed)	609.3451 s.3	Criminal Sexual Conduct 5 Violate 609.3451 s.1, clause (2) after previous conviction	6	1	0	0%	-	1	100%

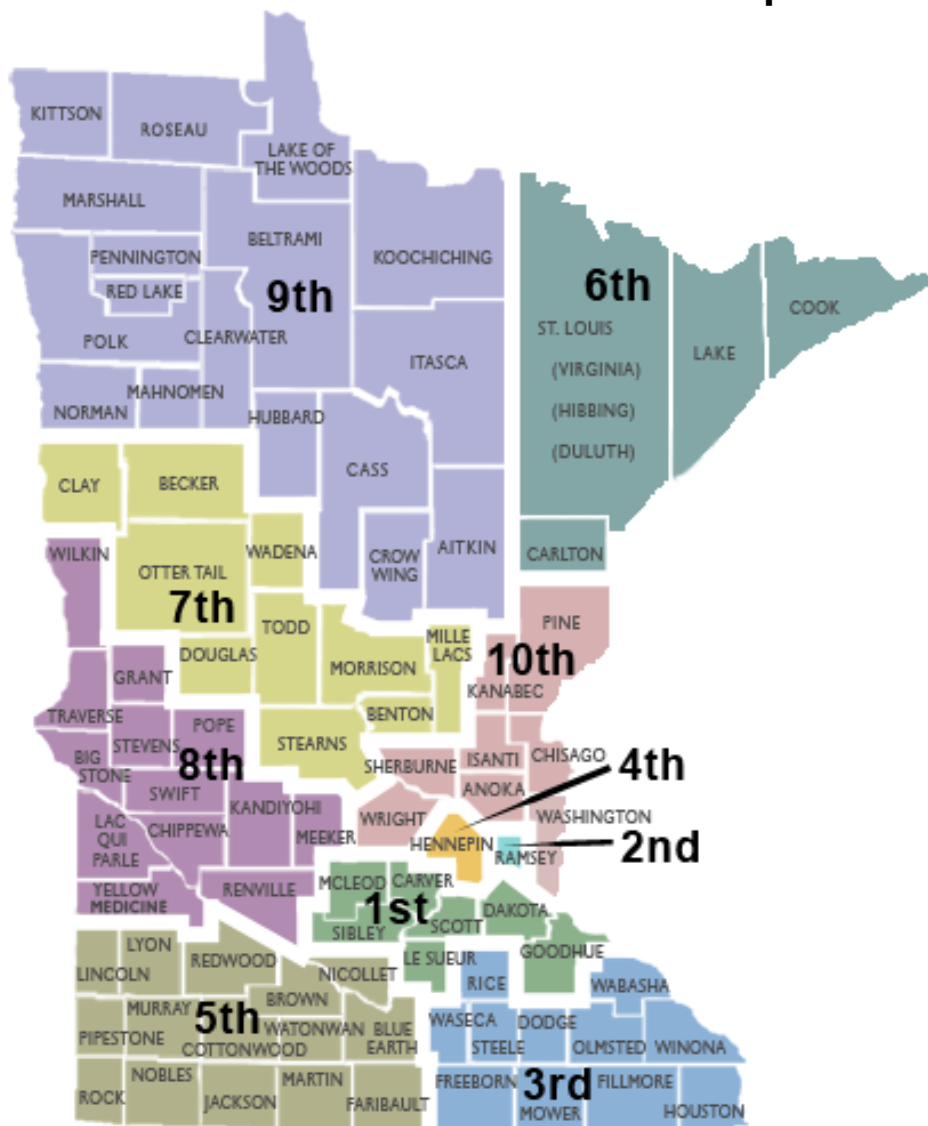
## How the Guidelines Work

To understand the data on sentencing practices, it is necessary to have a general knowledge of how the Guidelines work and what factors are used to determine the recommended sentence. Minnesota's Guidelines are based on a grid structure. The vertical axis represents the severity of the offense of conviction. The Commission has ranked offenses that are felonies under Minnesota law into eleven severity levels. Offenses for which a life sentence is mandated by statute (first-degree murder and some criminal sexual conduct offenses) are excluded from the Guidelines. A separate Sex Offender Grid is used for sentencing sex offenses with severity levels from A (most serious) to H. The horizontal axis represents the offender's criminal history and includes: variously weighted prior felony sentences; some prior misdemeanor/gross misdemeanor sentences; limited prior serious juvenile offenses; and added points for "custody status" if the offender was confined or was on probation, parole, supervised release, or conditional release, when the current offense was committed.

The recommended Guidelines sentence (presumptive sentence) is generally found in the cell of the Sentencing Guidelines Grid in which the offender's criminal history score and severity level intersect. The numbers in the cells are recommended lengths of prison sentences in months. For cells below and to the left of the solid line (the gray shaded area of the Grids), the Guidelines recommend a stayed sentence. When a sentence is stayed, the court typically places the offender on probation and may impose up to one year of local confinement (i.e., jail or workhouse). Other conditions such as fines, restitution, community work service, treatment, house arrest, etc., may also be imposed on the offender. For cells above and to the right of the solid line (the white area of the Grids), the Guidelines recommend incarceration in a state prison. When prison is the presumption, the Guidelines provide a range of 15 percent downward and 20 percent upward from a specified duration. The court may pronounce a sentence within that range without departing from the Guidelines.

The court may depart from the presumptive Guidelines sentence for reasons that are substantial and compelling. The court must state the reason(s) for departure on the record, and either the prosecution or the defense has the right to appeal the pronounced sentence. Regardless of whether or not the court follows the Guidelines, the sentence pronounced is fixed; there is no parole board to grant early release from prison. When an offender receives an executed (prison) sentence, the sentence pronounced by the court consists of two parts: a term of imprisonment equal to at least two-thirds of the total executed sentence and a supervised release term encompassing the remaining portion of the total executed sentence. The amount of time the offender actually serves in prison may be extended by the Department of Corrections if the offender violates disciplinary rules while in prison or violates conditions of supervised release. This extension period could result in the offender serving the entire executed sentence in prison. Certain offenses (such as criminal sexual conduct) have a period of conditional release attached to them. When an offender is committed to prison, the Department of Corrections places the person on conditional release for a designated term upon the offender's release from prison. Conditional release essentially extends the offender's term of supervision by the Department of Corrections upon release. The presumptive sentence cannot always be determined by simply looking at one of the sentencing Grids. The presumptive Guidelines sentence is sometimes greater than it might appear from the Grids alone, due to mandatory minimum sentences and other enhanced sentences provided by the Legislature. It is not possible to fully explain all of the policies in this brief summary. Additional information on the Sentencing Guidelines is available by contacting the Commission's office. The *Minnesota Sentencing Guidelines and Commentary* is available online at <http://www.msgc.state.mn.us>.

## Minnesota Judicial District Map



<u>First</u>	<u>Second</u>	<u>Third</u>	<u>Fourth</u>	<u>Fifth</u>	<u>Sixth</u>	<u>Seventh</u>	<u>Eighth</u>	<u>Ninth</u>	<u>Tenth</u>
Carver	Ramsey	Dodge	Hennepin	Blue Earth	Carlton	Becker	Big Stone	Aitkin	Anoka
Dakota		Fillmore		Brown	Cook	Benton	Chippewa	Beltrami	Chisago
Goodhue		Freeborn		Cottonwood	Lake	Clay	Grant	Cass	Isanti
LeSueur		Houston		Faribault	St. Louis	Douglas	Kandiyohi	Clearwater	Kanabec
McLeod		Mower		Jackson		Mille Lacs	LacQuiParle	Crow Wing	Pine
Scott		Olmsted		Lincoln		Morrison	Meeker	Hubbard	Sherburne
Sibley		Rice		Lyon		Otter Tail	Pope	Itasca	Washington
		Steele		Martin		Stearns	Renville	Kittson	Wright
		Wabasha		Murray		Todd	Stevens	Koochiching	
		Waseca		Nicollet		Wadena	Swift	Lake-Woods	
		Winona		Nobles			Traverse	Mahnomen	
				Pipestone			Wilkin	Marshall	
				Redwood			Yellow Medicine	Norman	
				Rock				Pennington	
				Watonwan				Polk	
								Red Lake	
								Roseau	

Minnesota Judicial Branch at <http://mncourts.gov/?page=238>



## Standard Sentencing Guidelines Grid – Effective August 1, 2012

Presumptive sentence lengths are in months. Italicized numbers within the grid denote the discretionary range within which a court may sentence without the sentence being deemed a departure. Offenders with stayed felony sentences may be subject to local confinement.

### CRIMINAL HISTORY SCORE

SEVERITY LEVEL OF CONVICTION OFFENSE (Example offenses listed in <i>italics</i> )		0	1	2	3	4	5	6 or more
<i>Murder, 2nd Degree</i> ( <i>intentional murder; drive-by-shootings</i> )	11	306 261-367	326 278-391	346 295-415	366 312-439	386 329-463	406 346-480 <sup>2</sup>	426 363-480 <sup>2</sup>
<i>Murder, 3rd Degree</i> <i>Murder, 2nd Degree</i> ( <i>unintentional murder</i> )	10	150 128-180	165 141-198	180 153-216	195 166-234	210 179-252	225 192-270	240 204-288
<i>Assault, 1st Degree</i> <i>Controlled Substance Crime, 1<sup>st</sup> Degree</i>	9	86 74-103	98 84-117	110 94-132	122 104-146	134 114-160	146 125-175	158 135-189
<i>Aggravated Robbery, 1st Degree</i> <i>Controlled Substance Crime, 2<sup>nd</sup> Degree</i>	8	48 41-57	58 50-69	68 58-81	78 67-93	88 75-105	98 84-117	108 92-129
<i>Felony DWI</i>	7	36	42	48	54 46-64	60 51-72	66 57-79	72 62-84 <sup>2</sup>
<i>Controlled Substance Crime, 3<sup>rd</sup> Degree</i>	6	21	27	33	39 34-46	45 39-54	51 44-61	57 49-68
<i>Residential Burglary</i> <i>Simple Robbery</i>	5	18	23	28	33 29-39	38 33-45	43 37-51	48 41-57
<i>Nonresidential Burglary</i>	4	12 <sup>1</sup>	15	18	21	24 21-28	27 23-32	30 26-36
<i>Theft Crimes (Over \$5,000)</i>	3	12 <sup>1</sup>	13	15	17	19 17-22	21 18-25	23 20-27
<i>Theft Crimes (\$5,000 or less)</i> <i>Check Forgery (\$251-\$2,500)</i>	2	12 <sup>1</sup>	12 <sup>1</sup>	13	15	17	19	21 18-25
<i>Sale of Simulated Controlled Substance</i>	1	12 <sup>1</sup>	12 <sup>1</sup>	12 <sup>1</sup>	13	15	17	19 17-22



Presumptive commitment to state imprisonment. First-degree murder has a mandatory life sentence and is excluded from the Guidelines under Minn. Stat. § 609.185. See Guidelines section 2.E. Mandatory Sentences, for policies regarding those sentences controlled by law.



Presumptive stayed sentence; at the discretion of the court, up to one year of confinement and other non-jail sanctions can be imposed as conditions of probation. However, certain offenses in the shaded area of the Grid always carry a presumptive commitment to state prison. Guidelines sections 2.C. Presumptive Sentence and 2.E. Mandatory Sentences.

<sup>1</sup> 12<sup>1</sup>=One year and one day

<sup>2</sup> Minn. Stat. § 244.09 requires that the Guidelines provide a range for sentences that are presumptive commitment to state imprisonment of 15% lower and 20% higher than the fixed duration displayed, provided that the minimum sentence is not less than one year and one day and the maximum sentence is not more than the statutory maximum. Guidelines section 2.C.1-2. Presumptive Sentence.



## Sex Offender Sentencing Grid – Effective August 1, 2012

Presumptive sentence lengths are in months. Italicized numbers within the grid denote the discretionary range within which a court may sentence without the sentence being deemed a departure. Offenders with stayed felony sentences may be subject to local confinement.

### CRIMINAL HISTORY SCORE

SEVERITY LEVEL OF CONVICTION OFFENSE		0	1	2	3	4	5	6 or More
CSC 1 <sup>st</sup> Degree	A	144 144-172	156 144-187	168 144-201	180 153-216	234 199-280	306 261-360	360 306-360 <sup>2</sup>
CSC 2 <sup>nd</sup> Degree– (c)(d)(e)(f)(h) Prostitution; Sex Trafficking <sup>3</sup> 1 <sup>st</sup> Degree–1(a)	B	90 90 <sup>3</sup> -108	110 94-132	130 111-156	150 128-180	195 166-234	255 217-300	300 255-300 <sup>2</sup>
CSC 3 <sup>rd</sup> Degree–(c)(d) (g)(h)(i)(j)(k)(l)(m)(n)(o) Prostitution; Sex Trafficking 2 <sup>nd</sup> Degree–1a	C	48 41-57	62 53-74	76 65-91	90 77-108	117 100-140	153 131-180	180 153-180 <sup>2</sup>
CSC 2 <sup>nd</sup> Degree–(a)(b)(g) CSC 3 <sup>rd</sup> Degree–(a)(b) <sup>2</sup> (e)(f) Dissemination of Child Pornography (Subsequent or by Predatory Offender)	D	36	48	60 51-72	70 60-84	91 78-109	119 102-142	140 119-168
CSC 4 <sup>th</sup> Degree–(c)(d) (g)(h)(i)(j)(k)(l)(m)(n)(o) Use Minors in Sexual Performance Dissemination of Child Pornography <sup>2</sup>	E	24	36	48	60 51-72	78 67-93	102 87-120	120 102-120 <sup>2</sup>
CSC 4 <sup>th</sup> Degree– (a)(b)(e)(f) Possession of Child Pornography (Subsequent or by Predatory Offender)	F	18	27	36	45 39-54	59 51-70	77 66-92	84 72-100
CSC 5 <sup>th</sup> Degree Indecent Exposure Possession of Child Pornography Solicit Children for Sexual Conduct <sup>2</sup>	G	15	20	25	30	39 34-46	51 44-60	60 51-60 <sup>2</sup>
Registration Of Predatory Offenders	H	12 <sup>1</sup> 12 <sup>1</sup> -14	14 12 <sup>1</sup> -16	16 14-19	18 16-21	24 21-28	30 26-36	36 31-43



Presumptive commitment to state imprisonment. Sex offenses under Minn. Stat. § 609.3455, subd. 2, have mandatory life sentences and are excluded from the Guidelines. See Guidelines section 2.E. Mandatory Sentences, for policies regarding those sentences controlled by law, including conditional release terms for sex offenders.



Presumptive stayed sentence; at the discretion of the court, up to one year of confinement and other non-jail sanctions can be imposed as conditions of probation. However, certain offenders in the shaded area of the Grid may qualify for a mandatory life sentence under Minn. Stat. § 609.3455, subd. 4. Guidelines sections 2.C. Presumptive Sentence and 2.E. Mandatory Sentences.

12<sup>1</sup>=One year and one day

<sup>2</sup> Minn. Stat. § 244.09 requires that the Guidelines provide a range for sentences that are presumptive commitment to state imprisonment of 15% lower and 20% higher than the fixed duration displayed, provided that the minimum sentence is not less than one year and one day and the maximum sentence is not more than the statutory maximum. Guidelines section 2.C.1-2. Presumptive Sentence.

<sup>3</sup> Prostitution; Sex Trafficking is not subject to a 90-month minimum statutory presumptive sentence so the standard range of 15% lower and 20% higher than the fixed duration applies. (The range is 77-108.)